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*Do Not Take*

# CONSTITUTION

*of the*

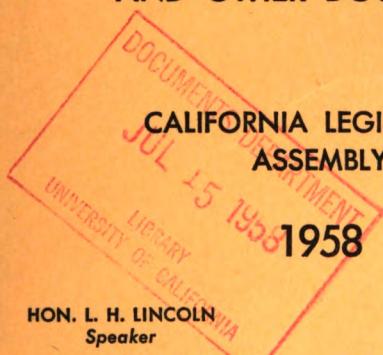
# UNITED STATES

*and of the*

# STATE OF CALIFORNIA

AS LAST AMENDED IN 1956

AND OTHER DOCUMENTS



HON. L. H. LINCOLN  
Speaker

HON. RICHARD H. MCCOLLISTER  
Majority Floor Leader

HON. CHARLES J. CONRAD  
Speaker pro Tempore

HON. WILLIAM A. MUNNELL  
Minority Floor Leader

ARTHUR A. OHNIMUS  
Chief Clerk



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**CONSTITUTION**  
*of the*  
**UNITED STATES**

**Declaration of Rights, Declaration of Independence  
Articles of Confederation**

*L.C.* **CONSTITUTION**  
*of the*  
**STATE OF CALIFORNIA**

**AS LAST AMENDED IN 1956**

**Act for the Admission of California Into the Union  
Constitutional History of California**

**CALIFORNIA LEGISLATURE  
ASSEMBLY**

**1958**

**HON. L. H. LINCOLN**  
*Speaker*

**HON. CHARLES J. CONRAD**  
*Speaker pro Tempore*

**HON. RICHARD H. McCOLLISTER**  
*Majority Floor Leader*

**HON. WILLIAM A. MUNNELL**  
*Minority Floor Leader*

**ARTHUR A. OHNIMUS**  
*Chief Clerk*



## AMERICAN'S CREED

I believe in the United States of America as a government of the people, by the people, for the people; whose just powers are derived from the consent of the governed; a democracy in a republic; a sovereign nation of many sovereign states; a perfect union, one and inseparable; established upon those principles of freedom, equality, justice, and humanity for which American patriots sacrificed their lives and fortunes. I therefore believe it is my duty to my Country to love it; to support its Constitution; to obey its laws; to respect its Flag; and to defend it against all enemies.

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*I pledge allegiance to the Flag of the United States of America  
and to the Republic for which it stands, one Nation under God,  
indivisible, with liberty and justice for all.*



## THE STATE FLAG

*The Bear Flag was designated California's State Flag by legislative enactment in 1911. It is patterned after the historic flag flown at Sonoma on June 14, 1846, by a group of American settlers in revolt against Mexican rule in California. This short-lived revolution ended on July 9, 1846. The general design and details of the Bear Flag are set forth in Section 420 of the Government Code.*

## AUTHORITY TO PRINT

House Resolution No. 45 of the 1958 Regular (Budget) Session

Offered by the Honorable Augustus F. Hawkins, Member of the Assembly for the Sixty-second District.

### House Resolution No. 45

WHEREAS, It is essential that the children of this Nation should be instructed in principles and ideals of Americanism; and

WHEREAS, One of the best methods of obtaining this information is the reading of the Constitution of the United States, the Constitution of the State of California, and the historical documents telling how this Country became a Nation; and

WHEREAS, The course of study in the schools of the State requires a study of State Government and the State and United States Constitution; and

WHEREAS, The Constitution of the State of California and the Constitution of the United States and other historical documents are of great use in the teaching of civics in the public schools and in the teaching of Americanism; and

WHEREAS, The 1957 edition of the Constitution is now depleted, and there are a great number of requests from our schools and from others for copies of the Constitution of the State of California and the Constitution of the United States, and other historical documents; now, therefore, be it

*Resolved by the Assembly of the State of California,* That the Chief Clerk of the Assembly be and he is hereby directed to compile, revise, and have published a volume similar to those previously issued by the Assembly containing the Constitution of the State of California, the Constitution of the United States and other documents, and he is authorized to revise and augment the article on the Legislature heretofore included in this book, and have it printed as a separate document; and be it further

*Resolved,* That the Chief Clerk is authorized to distribute these documents on request of Members of the Assembly not to exceed 50 copies of each to any one member and to others properly entitled thereto; and be it further

*Resolved,* That the cost of compilation and the printing of these publications be charged to, and payable from, the Legislative Printing Fund.

Resolution unanimously adopted by the Assembly on March 13, 1958.



*Speaker of the Assembly*

ATTEST:



*Chief Clerk of the Assembly*

**MEMBERS OF THE ASSEMBLY, 1958 SESSION**

L. LINCOLN, Speaker CHARLES J. CONTRAD, Speaker pro Tempore RICHARD H. MCCOLLISTER, Majority Floor Leader WILLIAM A. MUNNELL, Minority Floor Leader  
 ARTHUR A. OHNTMUS, Chief Clerk TONY BEARD, Sergeant-at-Arms REV. ROBERT S. ROMERS, Chaplain  
 ELEANOR K. DONOGHUE, Minute Clerk

Dis-trict	Name	Party*	Occupation	Residence	Counties Represented	Legislative Service
1	Frank P. Belotti	R	Farmer	Eureka	Del Norte, Humboldt, and Mendocino.	1951-1958
2	Pauline L. Davis	D-R	Railroad Dispatcher	Portland	Lassen, Modoc, Plumas, Shasta, Sierra, Siskiyou, and Trinity	1955-1958
3	Lloyd W. Lowrey	D-R	Farmer	Rumsey	Butte, Sutter and Yuba	1941-1958
4	Harold T. Sedgwick	R	Businessman	Oroville	Napa and Solano	Sept. 1955-1958
5	Samuel R. Geddes	D-R	General Contractor	Napa	Alpine, Amador, Calaveras, El Dorado, Loomis	1955-1958
6	Francis C. Lindsey	R	Rancher	Yolo	Marysville, Mono, Nevada, Placer, and Tuolumne	1949-1958
7	Richard H. McCollister	R	Real Estate	San Rafael	Marin and Sonoma	1941-1958
8	Thomas J. MacBride	D-R	Attorney	Sacramento	Sacramento	Dec. 1955-1958
9	Roy J. Nielsen	R	Real Estate and Insurance	Sacramento	Sacramento	1925-40 and 1953-1958
10	Donald D. Doyle	R	Insurance Broker	Lafayette	Contra Costa	1955-1958
11	S. C. Masterson	D-R	Attorney	El Sobrante	Contra Costa	1955-1958
12	William Buddick, Jr.	D	Attorney	Stockton	San Joaquin	1955-1958
13	Charles Bee	D-R	Teacher	Fairfield	Alameda	1955-1958
14	Robert W. Crown	D	Attorney	Alameda	Alameda	1957-1958
15	L. H. Lincoln	R	Subdivider	Oakland	Alameda	1948-1958
16	Walter I. Dahl	R	Realtor	Piedmont	Alameda	Nov. 1953-1958
17	William Byron Rumford	D-R	Pharmacist	Berkeley	Alameda	1949-1958
18	Don Mulford	R	Insurance Broker and Agent	Berkeley	Alameda	1955-1958
19	Charles W. Meyers	D	Businessman	San Francisco	Alameda	1946-1958
20	Philip Burton	D	Attorney	San Francisco	San Francisco	1955-1958
21	Casper W. Weinberger	R-D	Attorney	San Francisco	San Francisco	1955-1958
22	John A. Bristow	R	Attorney	San Francisco	San Francisco	1957-1958
23	John A. O'Connell	D-R	Attorney	San Francisco	San Francisco	1955-1958
24	Edward M. Gaffney	D	Insurance Broker	San Francisco	San Francisco	1941-1952 and 1955-1958
25	Louis Francis	R	Attorney	San Mateo	San Mateo	June 1956-1958
26	Carl A. Britschi	R	City Councilman	Redwood City	San Mateo	June 1956-1958
27	Glen E. Coolidge	R-D	Realtor	Redwood City	San Benito and Santa Cruz	1955-1958
28	Clark L. Bradley	R	Attorney	Santa Clara	Santa Clara	1953-1958
29	Bruce F. Allen	R	Attorney	Santa Clara	Santa Clara	1953-1958
30	Ralph M. Brown	D-R	Attorney	Stanislaus	Stanislaus	1943-1955
31	Gordon H. Winton, Jr.	D	Attorney	Madera	Madera and Merced	1957-1955
32	Wallace D. Henderson	D-R	Teacher	Madera	Madera and Merced	1957-1955
33	William W. Hansen	R	Rancher	Fresno	Fresno	1956-1958
34	Alan G. Pattee	R-D	Rancher	Fresno	Fresno	1956-1958
35	Myron H. Frew	D	Merchant	Salinas	Monterey and Tulare	1955-1958
36	James L. Holmes	R	Businessman	Dinuba	Kings and Tulare	1957-1958
37	Rex M. Cunningham	D-R	Public Accountant	Santa Barbara	Santa Barbara	1955-1958
				Ventura	Ventura	1955-1958

38	Dorothy M. Donahoe-----	Bakersfield-----	1953-1958 1957-1958 Open & closed 1960-1961
39	H. W. Kelly-----	Kern-----	1957-1958
40	Edward R. Elliott-----	Kern-----	1957-1958
41	Allan Miller-----	Los Angeles-----	1954-1958
42	William F. Marsh-----	San Fernando-----	1953-1958
43	Howard J. Thelin-----	North Hollywood-----	1957-1958
44	Herbert R. Klockstaem-----	Glendale-----	1957-1958
45	Don Anderson-----	Long Beach-----	1951-1958
46	Charles Edward Chapel-----	Montgomery Park-----	1951-1958
47	Albert L. Stewart-----	Inglewood-----	1951-1958
48	Frank Lanterman-----	Pasadena-----	1945-1958 Open & closed 1960-1961
49	Ernest R. Geddes-----	La Canada-----	1951-1958
50	Thomas M. Erwin-----	Claremont-----	1945-1958
51	R. Farmer-----	Rancho Cucamonga-----	1945-1958
52	William A. Munnell-----	La Puente-----	1945-1958
53	Frank G. Bonelli-----	Los Angeles-----	1951-1958
54	Montville A. Burke-----	Huntington Park-----	Nov. 1953-1958
55	John L. E. Collier-----	Alhambra-----	1945-1958
56	Vernon Kippatrick-----	Los Angeles-----	1945-1958
57	Seth J. Johnson-----	Lynwood-----	1959-1958
58	Charles J. Conrad-----	Motion Pictures and Television-----	1945-1958
59	Joseph C. Shell-----	Businessman-----	1945-1958
60	Thomas M. Rees-----	Attorney-----	1945-1958
61	Harold K. Levering-----	Businessman-----	1945-1958
62	Leslie A. McMillan-----	Attorney-----	1943-1958
63	Augustus F. Hawkins-----	Real Estate Broker-----	1939-1958
64	Don A. Allen, Sr.-----	Engineer-----	1955-1958
65	Lou A. Cusanovich-----	City Councilman-----	1941-1947 and June 1956-1958
66	Jesse M. Urrini-----	Lumber Business Manager-----	1958
67	Clayton H. Wilson-----	Economist-----	1945-1958
68	Jack A. Dills-----	Insurance Broker-----	1945-1958
69	Vincent Thomas-----	Businessman-----	1943-1958
70	Carley V. Porter-----	Legislation-----	1941-1958
71	W. S. Grant-----	Teacher and Businessman-----	1949-1958
72	W. M. (Lee) Backstrand-----	Businessman-----	1947-1952 and 1955-1958
73	Eugene G. Nisbett-----	Insurance-----	1943-1958
74	Jack A. Beaver-----	Realtor-----	1943-1958
75	Bruce Summer-----	Citrus Grower-----	1945-1958
76	Richard T. Hanna-----	General Insurance Agent-----	1945-1958
77	Levertette D. House-----	Attorney-----	1947-1958
78	Sheridan N. Hegland-----	Oil Distributor-----	1947-1958
79	Frank Luckel-----	Newspaper Publisher-----	1947-1958
80	George G. Crawford-----	Retired Navy Captain-----	1947-1958
	Jack Schrade-----	Attorney-----	1947-1958
		Rancher-Businessman-----	1945-1958

\* Party designations: R—Republican; D—Democratic; RD—Democrat; DR—Republican; first in sequence.

## MEMBERS OF THE SENATE, 1958 SESSION

HON. HAROLD J. POWERS, President  
JOHN F. LEA, Minute Clerk

HON. HUGH M. BURNS, President pro Tempore  
JOSEPH F. NOLAN, Sergeant-at-Arms

JOSEPH A. BEEK, Secretary  
REV. FATHER LUKE FOWLERSON, Chaplain

Dis-trict	Name	Party*	Occupation	Residence	Counties Represented	Term	Legislative Service
1	Stanley Arnold	D-R	Attorney	Sussville	Lassen, Modoc, and Plumas	Dec. 1955-1958	
	Randolph Collier	R-D	Title Business	Yreka	Del Norte and Siskiyou	1939-1958	
2	Carl L. Christensen, Jr.	D-R	Attorney	Redwood City	Humboldt and Lake	1957-1958	
3	James T. (Jim) Busch	R-D	Attorney	Mendocino and Trinity	1955-1958		
4	Edwin J. Regan	D-R	Attorney	Weaverville	Shasta and Trinity	1949-1958	
5	Paul L. Byrne	D-R	Insurance	Chico	Butte, Sierra, and Placer	1951-1958	
6	Harold (Bitz) Johnson	D-R	Supervisor, Pacific Fruit Express	Roseville	Nevada, Glenn, and Colusa	1949-1958	
7	Louis G. Sutton	R-D	Rancher	Marsville	El Dorado and Amador	May 1944-1958	
8	Swift Berry	R-D	Forest Engineer	Placerville	Marysville	1963-1958	
9	Ed C. Johnson	R-D	Retired	Marysville	Sutter and Yuba	1951-1958	
10	Nathan F. Connins	R	Attorney	Napa and Yolo	Sonoma	1949-1958	
11	F. Presley Abshire	R-D	Farmer	Santa Rosa	Marin	Nov. 1949-1958	
12	John F. McCarthy	D	General Contractor	San Rafael	San Francisco	1950-1958	
13	Robert L. McCarthy	D	Attorney	San Francisco	San Mateo	1949-1958	
14	Luther E. Gibson	D-R	Newspaper Publisher	Vallejo	Stanislaus	1949-1958	
15	Arthur H. Breed, Jr. <sup>†</sup>	R	Real Estate	Oakland	Watsonville	1947-1958	
16	George Miller, Jr. <sup>†</sup>	D	Businessman	Merced	Madera and Merced	1945-1958	
17	John F. Thompson <sup>†</sup>	R	Farmer	San Jose	Contra Costa	1945-1958	
18	Earl D. Desmond <sup>†</sup>	D-R	Attorney	Sacramento	Santa Cruz and San Benito	1945-1958	
19	Alan Short	D	Attorney	Stockton	Alpine, Inyo, and Mono	1945-1958	
20	Richard L. Dowig <sup>†</sup>	R	Attorney	Redwood City	San Luis Obispo	1947-1958	
21	Hugh F. Donnelly	D-R	Insurance	Turlock	Fresno	1947-1958	
22	Donald L. Grunsky <sup>†</sup>	R	Attorney	Watsonville	Godela	1945-1958	
23	James A. Cohey	D	Attorney	Merced	Porterville	1945-1958	
24	Fred S. Farr	D-R	Physician and Surgeon	Carmel	Monterey, Calaveras, and Tuolumne	May 1945-1958	
25	Stephen P. Teale	D-R	Retired	West Point	Kings	June 1953-1958	
26	Robert I. Montgomery	D-R	Merchant	Hanford	Shoshone	1953-1958	
27	Charles Brown	D-R	Retired	Arroyo Grande	Arroyo Grande	1953-1958	
28	Alan A. Briant	D-R	Savings and Loans	Fresno	Fresno	1953-1958	
29	Hugh M. Burns <sup>†</sup>	D-R	Rancher	Godela	Santa Barbara	1947-1958	
30	John J. Hollister, Jr.	D	Retired	Pine	Ventura	1945-1958	
31	John J. Hollister, Jr.	R	Insurance	Bakersfield	Orange	1943-1958	
32	J. Howard Williams	D-R	Attorney	Huntington Beach	San Bernardino	1943-1958 and 1943-1958	
33	James J. McBratney	D-R	Farmer	San Bernardino	Hemet	1943-1958	
34	Jess R. Dorsert <sup>†</sup>	R-D	Public Services	Los Angeles	Riverside	1947-1958	
35	John A. Murray, Jr.	R	Farmer	El Centro	Los Angeles	1953-1958	
36	Raymond H. Gregory	R	Attorney	Imperial	San Diego	1943-1958	
37	Nelson S. Dilworth <sup>†</sup>	R	Pharmacist	San Diego			
38	Richard Richards	D	Accountant				
39	John William Beard	R					
40	Fred H. Kraft <sup>†</sup>	R					

\* Party designations: R—Republican; D—Democrat; R-D, D-R, signifies candidate received both party nominations at the primary elections in 1954 and 1956. Candidate's party registration is shown first in sequence.

<sup>†</sup> Former Member of the Assembly.

**GOVERNORS, LIEUTENANT GOVERNORS, AND SPEAKERS OF THE ASSEMBLY—1849-1957**

GOVERNORS		LIEUTENANT GOVERNORS		SPEAKERS OF THE ASSEMBLY	
Name	Date of Inauguration	Name	Date of Inauguration	Name	Session No.
Peter H. Burnett <sup>1</sup>	Dec. 20, 1849	John McDougal <sup>2</sup>	Dec. 20, 1849	Thomas J. White <sup>4</sup>	1 Dec. 15, 1849
John McDougal <sup>3</sup>	Jan. 9, 1851	David C. Broderick (Acting) <sup>3</sup>	Jan. 9, 1851	John Bigler <sup>5</sup>	2 Jan. 6, 1851
John Bigler...	Jan. 8, 1852	Samuel Purdy	Jan. 8, 1852	Richard P. Hammond	3 Jan. 6, 1852
John Bigler...	Jan. 7, 1854	Samuel Purdy	Jan. 7, 1854	Isaac B. Wall	4 Jan. 3, 1853
J. Neely Johnson...	Jan. 9, 1856	Robert M. Anderson	Jan. 9, 1856	Charles S. Fairfax	5 Jan. 2, 1854
John B. Weller...	Jan. 8, 1858	John Walkup	Jan. 8, 1858	William W. Show	6 Jan. 1, 1855
Milton S. Lathan <sup>6</sup>	Jan. 9, 1860	John G. Downey <sup>7</sup>	Jan. 9, 1860	Ias. T. Farley	7 Jan. 7, 1855
John G. Downey <sup>7</sup>	Jan. 14, 1860	Isaac N. Quinn (Acting) <sup>8</sup>	Jan. 20, 1860	Elwood T. Beatty	8 Jan. 6, 1857
Leland Stanford...	Jan. 10, 1862	Pablo de la Guerra (Acting) <sup>9</sup>	Jan. 7, 1861	N. E. Whiteside	9 Jan. 4, 1858
Frederick F. Low...	Dec. 10, 1863	T. N. Machin	Dec. 10, 1863	William C. Stratton	10 Jan. 3, 1859
Henry H. Haight...	Dec. 5, 1867	William Holden	Dec. 5, 1867	Philip Moore	11 Jan. 2, 1860
Newton Booth <sup>10</sup>	Dec. 8, 1871	Romualdo Pacheco <sup>11</sup>	Dec. 8, 1871	R. Burnell	12 Jan. 7, 1861
Romualdo Pacheco <sup>11</sup>	Feb. 27, 1875	William Irvin (Acting) <sup>12</sup>	Feb. 27, 1875	George Barstow	13 Jan. 6, 1862
William Irvin...	Dec. 9, 1875	James A. Johnson	Dec. 9, 1875	Tim N. Machin	14 Jan. 5, 1863
George C. Perkins...	Jan. 8, 1880	John Mansfield	Jan. 8, 1880	John Yule	15 Dec. 7, 1863
George Stoneman...	Jan. 10, 1883	John Daggett	Jan. 10, 1883	Caius T. Ryland	16 Dec. 4, 1865
Washington Bartlett <sup>13</sup>	Jan. 8, 1887	Robert W. Waterman <sup>14</sup>	Jan. 8, 1887	George H. Rogers	17 Dec. 2, 1867
Robert W. Waterman <sup>14</sup>	Sept. 13, 1887	Stephen M. White (Acting) <sup>15</sup>	Sept. 13, 1887	Thomas B. Shannon	18 Dec. 6, 1869
Henry H. Markham...	Jan. 8, 1891	John B. Reddick	Jan. 8, 1891	Morris M. Estee	19 Dec. 4, 1871
James H. Budd	Jan. 11, 1895	Spencer G. Millard <sup>16</sup>	Jan. 11, 1895	Campbell P. Berry	20 Dec. 1, 1873
Henry T. Gage...	Jan. 3, 1899	William T. Jeter <sup>17</sup>	Oct. 25, 1895	Jabea F. Cowdry	21 Dec. 6, 1875
George C. Pardee...	Jan. 6, 1903	Jacob H. Neff	Jan. 3, 1899	William H. Parks	22 Dec. 3, 1877
		Alden Anderson	Jan. 6, 1903	Hugh M. La Rue	23 Jan. 24, 1880
				William H. Jordan	25 Jan. 3, 1883
				Robert Howe	26 Jan. 5, 1885
				Frank L. Coombs	27 Jan. 3, 1887
				F. H. Gould	28 Jan. 7, 1889
				John C. Lynch	29 Jan. 5, 1891
				Frank L. Coombs	30 Jan. 2, 1893
				Howard E. Wright's	31 Jan. 7, 1895
				Alden Anderson <sup>18</sup>	32 Jan. 4, 1897
				Cornelius W. Pendleton	33 Jan. 2, 1899
				Arthur G. Fisk	34 Jan. 7, 1901
				Frank C. Prescott	35 Jan. 5, 1903
					36 Jan. 2, 1905

**GOVERNORS, LIEUTENANT GOVERNORS, AND SPEAKERS OF THE ASSEMBLY—1849-1957—Continued**

GOVERNORS		LIEUTENANT GOVERNORS		SPEAKERS OF THE ASSEMBLY	
Name	Date of Inauguration	Name	Date of Inauguration	Name	Session No.
James N. Gillett.....	Jan. 8, 1907	Warren R. Porter.....	Jan. 8, 1907	R. L. Beardslée.....	37 Jan. 7, 1907
Hiram W. Johnson.....	Jan. 3, 1911	A. J. Wallace.....	Jan. 3, 1911	P. A. Stanton.....	38 Jan. 4, 1909
Hiram W. Johnson <sup>29</sup> .....	Jan. 6, 1915	John M. Eshleman <sup>29</sup> .....	Jan. 6, 1915	A. H. Hewitt.....	39 Jan. 2, 1911
William D. Stephens <sup>29</sup> .....	Mar. 15, 1917	William D. Stephens <sup>29</sup> .....	July 22, 1916	C. C. Young.....	40 Jan. 6, 1913
William D. Stephens.....	Jan. 7, 1919	Vacancy from Mar. 15, 1917, to Jan. 7, 1919	Jan. 7, 1919	C. C. Young.....	41 Jan. 4, 1915
Friend Wm. Richardson.....	Jan. 9, 1923	C. C. Young.....	Jan. 9, 1923	Henry W. Wright.....	42 Jan. 8, 1917
C. C. Young.....	Jan. 4, 1927	Burton Fitts <sup>29</sup> .....	Jan. 4, 1927	Frank F. Merriam.....	43 Jan. 6, 1919
James Ralph, Jr. <sup>29</sup> .....	Jan. 6, 1931	H. L. Carnahan <sup>29</sup> .....	Jan. 6, 1931	Eligar C. Levey.....	44 Jan. 3, 1921
Frank F. Merriam <sup>29</sup> .....	June 7, 1934	Vacancy from June 7, 1934, to Jan. 8, 1935.	Jan. 8, 1935	Edgar C. Levey.....	45 Jan. 8, 1923
Frank F. Merriam.....	June 8, 1935	George Y. Hatfield.....	Jan. 8, 1935	Wm. Mosley Jones.....	46 Jan. 5, 1925
Culbert L. Olson.....	Jan. 2, 1939	Ellis E. Patterson.....	Jan. 2, 1939	Gordon H. Garland.....	47 Jan. 3, 1927
Earl Warren.....	Jan. 4, 1943	Frederick F. Houser.....	Jan. 4, 1943	Gordon H. Garland.....	48 Jan. 7, 1929
Earl Warren.....	Jan. 6, 1947	Goodwin J. Knight.....	Jan. 6, 1947	Charles W. Lyon.....	49 Jan. 5, 1931
Earl Warren.....	Jan. 8, 1951	Goodwin J. Knight <sup>29</sup> .....	Jan. 8, 1951	Sam L. Collins.....	50 Jan. 2, 1933
Goodwin J. Knight <sup>29</sup> .....	Okt. 5, 1955	Harold J. Powers <sup>29</sup> .....	Okt. 5, 1955	Sam L. Collins.....	51 Jan. 7, 1935
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<sup>1</sup> Peter H. Burnett resigned as Governor on January 8, 1861.  
<sup>2</sup> John McDougal became Governor on January 8, 1861, succeeding Peter H. Burnett.

<sup>3</sup> David C. Broderick was elected President of the Senate on January 9, 1861, becoming Acting Lieutenant Governor on the same day. Succeeded John McDougal, who resigned to become Governor.

<sup>4</sup> Thomas J. White resigned as Speaker of the Assembly on February 6, 1860.

<sup>5</sup> Thomas J. White was elected Speaker of the Assembly on February 6, 1860, vice Thomas J. White, resigned.

<sup>6</sup> John Bigler was elected Governor on January 14, 1860.

<sup>7</sup> Milton S. Latham resigned as Governor on January 14, 1860, succeeding Milton S. Latham, resigned.

<sup>8</sup> John G. Downey became Governor on January 14, 1860, succeeding Milton S. Latham, resigned. Succeeded John G. Downey, who resigned to become Isaac N. Quinn, who was elected President of the Senate on January 20, 1860, becoming Acting Lieutenant Governor on the same day. Succeeded John G. Downey, who was President of the Senate at the preceding session of 1860.

<sup>9</sup> Pablo de la Guerra was elected President of the Senate on January 7, 1861, becoming Acting Lieutenant Governor on the same day. Succeeded Isaac N. Quinn, who was President of the Senate at the preceding session of 1860.

<sup>10</sup> Newton Booth resigned as Governor on February 27, 1875.

<sup>11</sup> Romualdo Pacheco became Governor on February 27, 1875, succeeding Newton Booth, resigned.

<sup>12</sup> William Irwin, President of the Senate, became Acting Lieutenant Governor on February 27, 1875, succeeding Romualdo Pacheco, who resigned to become Governor.

<sup>13</sup> Washington Bartlett died in office on September 12, 1887.

<sup>14</sup> Robert W. Waterman became Governor on September 13, 1887, succeeding Washington Bartlett, who died in office.

<sup>15</sup> Stephen N. White elected President pro Tempore of the Senate on January 5, 1887, became Acting Lieutenant Governor on September 13, 1887. Succeeded Robert W. Waterman, who resigned to become Governor.

<sup>16</sup> Spencer G. Millard died in office on October 24, 1895.

<sup>17</sup> William T. Jeter was appointed Lieutenant Governor by Governor James H. Budd on October 25, 1895, succeeding Spencer G. Millard, who died in office.

<sup>18</sup> Howard E. Wright resigned as Speaker of the Assembly on January 31, 1899.

<sup>19</sup> Alden Anderson was elected Speaker of the Assembly on January 31, 1899, vice Howard E. Wright, resigned.

<sup>20</sup> Hiram W. Johnson resigned as Governor on March 15, 1917.

<sup>21</sup> John M. Eschleman was appointed Lieutenant Governor on July 22, 1916, by Governor Hiram W. Johnson, succeeding John M. Eschleman, who died in office. On March 15, 1917, he became Governor, succeeding Hiram W. Johnson, who resigned to become United States Senator.

<sup>22</sup> Buron Flits resigned as Lieutenant Governor on November 30, 1928.

<sup>23</sup> Buron Flits, resigned as Lieutenant Governor by Governor C. C. Young on December 4, 1928, succeeding Buron Flits, resigned.

<sup>24</sup> H. L. Carnahan was appointed Lieutenant Governor by Governor C. C. Young on December 4, 1934.

<sup>25</sup> James Rolph, Jr., died in office on June 2, 1934.

<sup>26</sup> Frank F. Merriam became Governor on June 7, 1934, succeeding James Rolph, Jr., who died in office.

<sup>27</sup> Earl Warren was appointed Chief Justice of the United States Supreme Court by President Eisenhower. Resigned October 4, 1953.

<sup>28</sup> Goodwin J. Knight resigned as Lieutenant Governor on October 4, 1953, succeeding Earl Warren, resigned.

<sup>29</sup> Harold J. Powers became Lieutenant Governor on October 5, 1953, succeeding Goodwin J. Knight, resigned.



## FOREWORD

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The California Legislature has, for many years, provided free copies of the *Constitution of the United States* and the *Constitution of the State of California* and other historical documents to those persons who are making a study of American Government.

The purpose of this book is to make copies of these documents by which the United States became a Nation and California became a State available to the student, and to give him a better understanding of the American form of government.

The most reliable sources available have been used, and the historical documents have been copied as exactly as is practicable. The blackface heads throughout the text have been inserted to assist the reader, and are not to be construed as interpreting or qualifying the provisions of the documents.

This publication is a revision of the 1957 Edition and includes the Twenty-second Amendment to the Federal Constitution which was ratified in 1951, and the amendments to the California Constitution which were approved by the people at the general election held November 6, 1956.

The brief constitutional history of California by Paul Mason is interesting and instructive, and a valuable addition to this book.

Sacramento, California  
March, 1958

ARTHUR A. OHNIMUS  
*Chief Clerk of the Assembly*



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**Declarations of Rights  
1765 and 1774**

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**The Declaration of Independence**

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**Articles of Confederation**

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# Declaration of Rights \*

*In Congress, at New York, October 19, 1765*

The Congress . . . upon mature deliberation, agreed to the following declarations of the rights and grievances of the colonists in America. . . .

The members of this Congress, sincerely devoted, with the warmest sentiments of affection and duty to His Majesty's person and government; inviolably attached to the present happy establishment of the Protestant succession, and with minds deeply impressed by a sense of the present and impending misfortunes of the British colonies on this continent; having considered as maturely as time would permit, the circumstances of the said colonies, esteem it our indispensable duty to make the following declarations, of our humble opinion, respecting the most essential rights and liberties of the colonists, and of the grievances under which they labor, by reason of several late acts of Parliament.

1st. That His Majesty's subjects in these colonies, owe the same allegiance to the Crown of Great Britain, that is owing from his subjects born within the realm, and all due subordination to that august body, the Parliament of Great Britain.

2d. That His Majesty's liege subjects in these colonies are entitled to all the inherent rights and privileges of his natural born subjects within the kingdom of Great Britain.

3d. That it is inseparably essential to the freedom of a people, and the undoubted rights of Englishmen, that no taxes should be imposed on them, but with their own consent, given personally, or by their representatives.

4th. That the people of these colonies are not, and from their local circumstances, can not be represented in the House of Commons in Great Britain.

5th. That the only representatives of the people of these colonies, are persons chosen therein, by themselves; and that no taxes ever have been, or can be constitutionally imposed on them, but by their respective legislatures.

6th. That all supplies to the Crown, being free gifts of the people, it is unreasonable and inconsistent with the principles and spirit of the British constitution, for the people of Great Britain to grant to His Majesty the property of the colonists.

7th. That trial by jury is the inherent and invaluable right of every British subject in these colonies.

\* Journal of the Stamp Act Congress, New York, 1765, as printed in the *Republication of the Principles and Acts of the Revolution in America* by Hezekiah Niles (1876).

8th. That the late act of Parliament, entitled, "An act for granting and applying certain stamp duties, and other duties in the British colonies and plantations in America, etc., " by imposing taxes on the inhabitants of these colonies, and the said act, and several other acts, by extending the jurisdiction of the courts of admiralty beyond its ancient limits, have a manifest tendency to subvert the rights and liberties of the colonists.

9th. That the duties imposed by several late acts of Parliament, from their peculiar circumstances of these colonies, will be extremely burthen-some and grievous, and from the scarcity of specie, the payment of them absolutely impracticable.

10th. That as the profits of the trade of these colonies ultimately center in Great Britain, to pay for the manufactures which they are obliged to take from thence, they eventually contribute very largely to all supplies granted there to the Crown.

11th. That the restrictions imposed by several late acts of Parliament, on the trade of these colonies, will render them unable to purchase the manufactures of Great Britain.

12th. That the increase, prosperity and happiness of these colonies, depend on the full and free enjoyment of their rights and liberties, and an intercourse, with Great Britain, mutually affectionate and advantageous.

13th. That it is the right of the British subjects in these colonies, to petition the King or either house of Parliament.

Lastly, that it is the indispensable duty of these colonies to the best of sovereigns, to the mother country, and to themselves, to endeavor by a loyal and dutiful address to His Majesty, and humble application to both houses of Parliament, to procure the repeal of the act for granting and applying certain stamp duties, of all clauses of any other acts of Parliament, whereby the jurisdiction of the admiralty is extended as aforesaid, and of the other late acts for the restriction of the American commerce.

# Declaration of Rights \*

*In Congress, at Philadelphia, October 14, 1774*

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Whereas, since the close of the last war, the British Parliament, claiming a power of right to bind the people of America, by statute in all cases whatsoever, hath in some acts expressly imposed taxes on them, and in others, under various pretenses, but in fact for the purpose of raising a revenue, hath imposed rates and duties payable in these colonies, established a board of commissioners, with unconstitutional powers, and extended the jurisdiction of courts of admiralty, not only for collecting the said duties, but for the trial of causes merely arising within the body of a county.

And whereas, in consequence of other statutes, judges, who before held only estates at will in their offices, have been made dependent on the Crown alone for their salaries, and standing armies kept in times of peace:

And it has lately been resolved in Parliament, that by force of a statute, made in the thirty-fifth year of the reign of King Henry the Eighth, colonists may be transported to England, and tried there upon accusations for treasons, and misprisions, or concealments of treasons committed in the colonies, and by a late statute, such trials have been directed in cases therein mentioned.

And whereas, in the last session of Parliament, three statutes were made; one, entitled "An act to discontinue, in such manner and for such time as are therein mentioned, the landing and discharging, lading, or shipping of goods, wares and merchandise, at the town, and within the harbor of Boston, in the province of Massachusetts Bay, in North America"; another, entitled "An act for the better regulating the government of the province of the Massachusetts Bay in New England"; and another, entitled "An act for the impartial administration of justice, in the cases of persons questioned for any act done by them in the execution of the law, or for the suppression of riots and tumults, in the province of the Massachusetts Bay, in New England." And another statute was then made, "for making more effectual provision for the government of the province of Quebec, etc." All which statutes are impolitic, unjust and cruel, as well as unconstitutional, and most dangerous and destructive of American rights.

And whereas, assemblies have been frequently dissolved, contrary to the rights of the people, when they attempted to deliberate on griev-

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\* *Journals of the Continental Congress 1774-1789*. Edited from the original records in the Library of Congress by Worthington Chauncy Ford, Chief, Division of Manuscripts. Washington: Government Printing Office, 1904.

ances; and their dutiful, humble, loyal, and reasonable petitions to the Crown for redress, have been repeatedly treated with contempt, by His Majesty's ministers of state:

The good people of the several colonies of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, New Castle, Kent and Sussex on Delaware, Maryland, Virginia, North Carolina, and South Carolina, justly alarmed at these arbitrary proceedings of Parliament and administration, have severally elected, constituted, and appointed deputies to meet and sit in general congress, in the city of Philadelphia, in order to obtain such establishment, as that their religion, laws, and liberties may not be subverted:

Whereupon the deputies so appointed being now assembled, in a full and free representation of these colonies, taking into their most serious consideration, the best means of attaining the ends aforesaid, do, in the first place, as Englishmen, their ancestors in like cases have usually done, for asserting and vindicating their rights and liberties, declare,

That the inhabitants of the English colonies in North America, by the immutable laws of nature, the principles of the English Constitution, and the several charters or compacts, have the following rights:

*Resolved*, N. C. D. 1. That they are entitled to life, liberty, and property, and they have never ceded to any sovereign power whatever, a right to dispose of either without their consent.

*Resolved*, N. C. D. 2. That our ancestors, who first settled these colonies, were at the time of their emigration from the mother country, entitled to all the rights, liberties, and immunities of free and natural-born subjects, within the realm of England.

*Resolved*, N. C. D. 3. That by such emigration they by no means forfeited, surrendered, or lost any of those rights, but that they were, and their descendants now are, entitled to the exercise and enjoyment of all such of them, as their local and other circumstances enable them to exercise and enjoy.

*Resolved*, 4. That the foundation of English liberty, and of all free government, is a right in the people to participate in their legislative council: and as the English colonists are not represented, and from their local and other circumstances, can not properly be represented in the British Parliament, they are entitled to a free and exclusive power of legislation in their several provincial legislatures, where their right of representation can alone be preserved, in all cases of taxation and internal polity, subject only to the negative of their sovereign, in such manner as has been heretofore used and accustomed. But, from the necessity of the case, and a regard to the mutual interest of both countries, we cheerfully consent to the operation of such acts of the British Parliament, as are bona fide, restrained to the regulation of our external commerce, for the purpose of securing the commercial advantages of the whole empire to the mother country, and the commercial benefits of its respective members; excluding every idea of taxation, internal or

external, for raising a revenue on the subjects in America, without their consent.

*Resolved*, N. C. D. 5. That the respective colonies are entitled to the common law of England, and more especially to the great and inestimable privilege of being tried by their peers of the vicinage, according to the course of that law.

*Resolved*, N. C. D. 6. That they are entitled to the benefit of such of the English statutes as existed at the time of their colonization; and which they have, by experience, respectively found to be applicable to their several local and other circumstances.

*Resolved*, N. C. D. 7. That these, His Majesty's colonies, are likewise entitled to all the immunities and privileges granted and confirmed to them by royal charters, or secured by their several codes of provincial laws.

*Resolved*, N. C. D. 8. That they have a right peaceably to assemble, consider of their grievances, and petition the King; and that all prosecutions, prohibitory proclamations, and commitments for the same, are illegal.

*Resolved*, N. C. D. 9. That the keeping a standing army in these colonies, in times of peace, without the consent of the legislature of that colony, in which such army is kept, is against law.

*Resolved*, N. C. D. 10. It is indispensably necessary to good government, and rendered essential by the English constitution, that the constituent branches of the legislature be independent of each other; that, therefore, the exercise of legislative power in several colonies, by a council appointed, during pleasure, by the Crown, is unconstitutional, dangerous, and destructive to the freedom of American legislation.

All and each of which the aforesaid deputies, in behalf of themselves and their constituents, do claim, demand, and insist on, as their indubitable rights and liberties; which can not be legally taken from them, altered or abridged by any power whatever, without their own consent, by their representatives in their several provincial legislatures.

In the course of our inquiry, we find many infringements and violations of the foregoing rights, which, from an ardent desire, that harmony and mutual intercourse of affection and interest may be restored, we pass over for the present, and proceed to state such acts and measures as have been adopted since the last war, which demonstrate a system formed to enslave America.

*Resolved*, N. C. D. That the following acts of Parliament are infringements and violations of the rights of the colonists; and that the repeal of them is essentially necessary in order to restore harmony between Great Britain and the American colonies, viz.:

The several acts of 4 Geo. 3. ch. 15, and ch. 34.—5 Geo. 3. ch. 25.—6 Geo. 3. ch. 52.—7 Geo. 3. ch. 41, and ch. 46.—8 Geo. 3. ch. 22, which impose duties for the purpose of raising a revenue in America, extend the powers of the admiralty courts beyond their ancient limits, deprive the American subject of trial by jury, authorize the judges'

certificate to indemnify the prosecutor from damages, that he might otherwise be liable to, requiring oppressive security from a claimant of ships and goods seized, before he shall be allowed to defend his property, and are subversive of American rights.

Also the 12 Geo. 3. ch. 24, entitled "An act for the better securing His Majesty's dock yards, magazines, ships, ammunition, and stores," which declares a new offense in America, and deprives the American subject of a constitutional trial by a jury of the vicinage, by authorizing the trial of any person, charged with the committing any offense described in the said act, out of the realm, to be indicted and tried for the same in any shire or county within the realm.

Also the three acts passed in the last session of Parliament, for stopping the port and blocking up the harbor of Boston, for altering the charter and government of the Massachusetts Bay, and that which is entitled "An act for the better administration of justice," etc.

Also the act passed in the same session for establishing the Roman Catholic religion in the province of Quebec, abolishing the equitable system of English laws, and erecting a tyranny there, to the great danger, from so total a dissimilarity of religion, law, and government of the neighboring British colonies, by the assistance of whose blood and treasure the said country was conquered from France.

Also the act passed in the same session for the better providing suitable quarters for officers and soldiers in His Majesty's service in North America.

Also, that the keeping a standing army in several of these colonies, in time of peace, without the consent of the legislature of that colony in which such army is kept, is against law.

To these grievous acts and measures, Americans can not submit, but in hopes that their fellow subjects in Great Britain will, on a revision of them, restore us to that state in which both countries found happiness and prosperity, we have for the present only resolved to pursue the following peaceable measures:

1st. To enter into a non-importation, non-consumption, and non-exportation agreement or association.

2. To prepare an address to the people of Great Britain, and a memorial to the inhabitants of British America, and

3. To prepare a loyal address to His Majesty; agreeable to resolutions already entered into.

# The Declaration of Independence \*

(Adopted in Congress, July 2; Signed July 4, 1776)

## *The Unanimous Declaration of the Thirteen United States of America*

When, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same object evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security.—Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws, the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation till his assent

\* *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States.* Compiled under an order of the United States Senate by Ben. Perley Poore, Clerk of Printing Records. Washington: Government Printing Office, 1877.

should be obtained; and when so suspended, he has utterly neglected to attend to them.

He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature, a right inestimable to them and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly for opposing with manly firmness his invasions on the rights of the people.

He has refused for a long time, after such dissolutions, to cause others to be elected; whereby the legislative powers, incapable of annihilation, have returned to the people at large for their exercise; the state remaining in the meantime exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the conditions of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies without the consent of our legislature.

He has affected to render the military independent of and superior to the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us:

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states:

For cutting off our trade with all parts of the world:

For imposing taxes on us without our consent:

For depriving us in many cases, of the benefits of trial by jury:

For transporting us beyond seas to be tried for pretended offenses:

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies:

For taking away our charters, abolishing our most valuable laws, and altering fundamentally the forms of our governments:

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection and waging war against us.

He has plundered our seas, ravaged our coasts, burned our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow citizens taken captive on the high seas to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections amongst us, and has endeavored to bring on the inhabitants of our frontiers, the merciless Indian savages, whose known rule of warfare, is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: Our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attention to our British brethren. We have warned them from time to time of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which, would inevitably interrupt our connections and correspondence. They too have been deaf to the voice of justice and of consanguinity. We must, therefore, acquiesce in the necessity, which denounces our separation, and hold them, as we hold the rest of mankind, enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in General Congress, assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the name, and by authority of the good people of these colonies, solemnly publish and declare, that these united colonies are, and of right ought to be free and independent states; that they are absolved from all allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and to do all other acts and things which independent states may of right do. And for the

support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes and our sacred honor.

JOHN HANCOCK

*New Hampshire*

JOSIAH BARTLETT  
WM. WHIPPLE  
MATTHEW THORNTON

GEO. CLYMER  
JAS. SMITH  
GEO. TAYLOR  
JAMES WILSON  
GEO. ROSS

*Massachusetts Bay*

SAML. ADAMS  
JOHN ADAMS  
ROBT. TREAT PAINE  
ELBRIDGE GERRY

CÆSAR RODNEY  
GEO. READ  
THO. M'KEAN

*Rhode Island*

STEP. HOPKINS  
WILLIAM ELLERY

*Maryland*

SAMUEL CHASE  
WM. PACA  
THOS. STONE  
CHARLES CARROLL of Carrollton

*Connecticut*

ROGER SHERMAN  
SAM'EL HUNTINGTON  
WM. WILLIAMS  
OLIVER WOLCOTT

GEORGE WYTHE  
RICHARD HENRY LEE  
TH JEFFERSON  
BENJA. HARRISON  
THOS. NELSON, JR.  
FRANCIS LIGHTFOOT LEE  
CARTER BRAXTON

*New York*

WM. FLOYD  
PHIL. LIVINGSTON  
FRANS. LEWIS  
LEWIS MORRIS

*North Carolina*

WM. HOOPER  
JOSEPH HEWES  
JOHN PENN

*New Jersey*

RICHD. STOCKTON  
JNO. WITHERSPOON  
FRAS. HOPKINSON  
JOHN HART  
ABRA. CLARK

*South Carolina*

EDWARD RUTLEDGE  
THOS. HEYWARD, JUNR.  
THOMAS LYNCH, JUNR.  
ARTHUR MIDDLETON

*Pennsylvania*

ROBT. MORRIS  
BENJAMIN RUSH  
BENJA. FRANKLIN  
JOHN MORTON

*Georgia*

BUTTON GWINNETT  
LYMAN HALL  
GEO. WALTON

# Articles of Confederation \*

*To all to whom these presents shall come, we the undersigned delegates of the states affixed to our names send greeting:*

WHEREAS the delegates of the United States of America in Congress assembled did on the fifteenth day of November in the year of our Lord one thousand seven hundred and seventy-seven, and in the second year of the independence of America, agree to certain Articles of Confederation and perpetual union between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia in the words following, viz.:

## **Articles of Confederation and Perpetual Union Between the States of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina and Georgia**

ARTICLE I. The style of this Confederacy shall be "The United States of America."

ARTICLE II. Each state retains its sovereignty, freedom and independence, and every power, jurisdiction and right, which is not by this Confederation expressly delegated to the United States, in Congress assembled.

ARTICLE III. The said states hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.

ARTICLE IV. The better to secure and perpetuate mutual friendship and intercourse among the people of the different states in this Union, the free inhabitants of each of these states, paupers, vagabonds and fugitives from justice excepted, shall be entitled to all privileges and immunities of free citizens in the several states; and the people of each state shall have free ingress and regress to and from any other state, and shall enjoy therein all the privileges of trade and commerce, subject to the same duties, impositions and restrictions as the inhabitants

\* *The Federal and State Constitutions, Colonial Charters, and Other Organic Laws of the United States.* Compiled under an order of the United States Senate by Ben. Perley Poore, Clerk of Printing Records. Washington: Government Printing Office, 1877.

thereof respectively, provided that such restrictions shall not extend so far as to prevent the removal of property imported into any state, to any other state of which the owner is an inhabitant; provided also that no imposition, duties or restriction shall be laid by any state, on the property of the United States, or either of them.

If any person guilty of, or charged with treason, felony, or other high misdemeanor in any state, shall flee from justice, and be found in any of the United States, he shall upon demand of the governor or executive power, of the state from which he fled, be delivered up and removed to the state having jurisdiction of his offense.

Full faith and credit shall be given in each of these states to the records, acts and judicial proceedings of the courts and magistrates of every other state.

**ARTICLE V.** For the more convenient management of the general interests of the United States, delegates shall be annually appointed in such manner as the legislature of each state shall direct, to meet in Congress on the first Monday in November, in every year, with a power reserved to each state, to recall its delegates, or any of them, at any time within the year, and to send others in their stead, for the remainder of the year.

No state shall be represented in Congress by less than two, nor by more than seven members; and no person shall be capable of being a delegate for more than three years in any term of six years; nor shall any person, being a delegate, be capable of holding any office under the United States, for which he, or another for his benefit receives any salary, fees or emolument of any kind.

Each state shall maintain its own delegates in a meeting of the states, and while they act as members of the committee of the states.

In determining questions in the United States, in Congress assembled, each state shall have one vote.

Freedom of speech and debate in Congress shall not be impeached or questioned in any court, or place out of Congress, and the members of Congress shall be protected in their persons from arrests and imprisonments, during the time of their going to and from, and attendance on Congress, except for treason, felony, or breach of the peace.

**ARTICLE VI.** No state without the consent of the United States in Congress assembled, shall send any embassy to, or receive any embassy from, or enter into any conference, agreement, alliance or treaty with any king, prince or state; nor shall any person holding any office of profit or trust under the United States, or any of them, accept of any present, emolument, office or title of any kind whatever from any king, prince or foreign state; nor shall the United States in Congress assembled, or any of them, grant any title of nobility.

No two or more states shall enter into any treaty, confederation or alliance whatever between them, without the consent of the United States in Congress assembled, specifying accurately the purposes for which the same is to be entered into, and how long it shall continue.

No state shall lay any imposts or duties, which may interfere with any stipulations in treaties, entered into by the United States in Congress assembled, with any king, prince or state, in pursuance of any treaties already proposed by Congress, to the courts of France and Spain.

No vessels of war shall be kept up in time of peace by any state, except such number only, as shall be deemed necessary by the United States in Congress assembled, for the defense of such state, or its trade; nor shall any body of forces be kept up by any state, in time of peace, except such number only, as in the judgment of the United States, in Congress assembled, shall be deemed requisite to garrison the forts necessary for the defense of such state; but every state shall always keep up a well regulated and disciplined militia, sufficiently armed and accoutered, and shall provide and constantly have ready for use, in public stores, a due number of field pieces and tents, and a proper quantity of arms, ammunition and camp equipage.

No state shall engage in any war without the consent of the United States in Congress assembled, unless such state be actually invaded by enemies, or shall have received certain advice of a resolution being formed by some nation of Indians to invade such state, and the danger is so imminent as not to admit of a delay, till the United States in Congress assembled can be consulted: nor shall any state grant commissions to any ships or vessels of war, nor letters of marque or reprisal, except it be after a declaration of war by the United States in Congress assembled, and then only against the kingdom or state and the subjects thereof, against which war has been so declared, and under such regulations as shall be established by the United States in Congress assembled, unless such state be infested by pirates, in which case vessels of war may be fitted out for that occasion, and kept so long as the danger shall continue, or until the United States in Congress assembled shall determine otherwise.

**ARTICLE VII.** When land forces are raised by any state for the common defense, all officers of or under the rank of colonel, shall be appointed by the Legislature of each state respectively by whom such forces shall be raised, or in such manner as such state shall direct, and all vacancies shall be filled up by the state which first made the appointment.

**ARTICLE VIII.** All charges of war, and all other expenses that shall be incurred for the common defense or general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of a common treasury, which shall be supplied by the several states, in proportion to the value of all land within each state, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated according to such mode as the United States in Congress assembled, shall from time to time direct and appoint.

The taxes for paying that proportion shall be laid and levied by the authority and direction of the legislatures of the several states within the time agreed upon by the United States in Congress assembled.

ARTICLE IX. The United States in Congress assembled, shall have the sole and exclusive right and power of determining on peace and war, except in the cases mentioned in the sixth article—of sending and receiving ambassadors—entering into treaties and alliances, provided that no treaty of commerce shall be made whereby the legislative power of the respective states shall be restrained from imposing such imposts and duties on foreigners, as their own people are subjected to, or from prohibiting the exportation or importation of any species of goods or commodities whatsoever—of establishing rules for deciding in all cases, what captures on land or water shall be legal, and in what manner prizes taken by land or naval forces in the service of the United States shall be divided or appropriated—of granting letters of marque and reprisal in times of peace—appointing courts for the trial of piracies and felonies committed on the high seas and establishing courts for receiving and determining finally appeals in all cases of captures, provided that no member of Congress shall be appointed a judge of any of the said courts.

The United States in Congress assembled shall also be the last resort on appeal in all disputes and differences now subsisting or that hereafter may arise between two or more states concerning boundary, jurisdiction or any other cause whatever; which authority shall always be exercised in the manner following. Whenever the legislative or executive authority or lawful agent of any state in controversy with another shall present a petition to Congress, stating the matter in question and praying for a hearing, notice thereof shall be given by order of Congress to the legislative or executive authority of the other state in controversy, and a day assigned for the appearance of the parties by their lawful agents, who shall then be directed to appoint by joint consent, commissioners or judges to constitute a court for hearing and determining the matter in question: but if they can not agree, Congress shall name three persons out of each of the United States, and from the list of such persons each party shall alternately strike out one, the petitioners beginning, until the number shall be reduced to thirteen; and from that number not less than seven, nor more than nine names, as Congress shall direct, shall in the presence of Congress be drawn out by lot, and the persons whose names shall be so drawn or any five of them, shall be commissioners or judges, to hear and finally determine the controversy, so always as a major part of the judges who shall hear the cause shall agree in the determination: and if either party shall neglect to attend at the day appointed, without showing reasons, which Congress shall judge sufficient, or being present shall refuse to strike, the Congress shall proceed to nominate three persons out of each state, and the Secretary of Congress shall strike in behalf of such party absent or refusing; and the judgment and sentence of the court to be

appointed, in the manner before prescribed, shall be final and conclusive; and if any of the parties shall refuse to submit to the authority of such court, or to appear or defend their claim or cause, the court shall nevertheless proceed to pronounce sentence, or judgment, which shall in like manner be final and decisive, the judgment or sentence and other proceedings being in either case transmitted to Congress, and lodged among the acts of Congress for the security of the parties concerned: provided that every commissioner, before he sits in judgment, shall take an oath to be administered by one of the judges of the supreme or superior court of the state where the cause shall be tried, "well and truly to hear and determine the matter in question, according to the best of his judgment, without favor, affection or hope of reward": provided also that no state shall be deprived of territory for the benefit of the United States.

All controversies concerning the private right of soil claimed under different grants of two or more states, whose jurisdiction as they may respect such lands, and the states which passed such grants are adjusted, the said grants or either of them being at the same time claimed to have originated antecedent to such settlement of jurisdiction, shall on the petition of either party to the Congress of the United States, be finally determined as near as may be in the same manner as is before prescribed for deciding disputes respecting territorial jurisdiction between different states.

The United States in Congress assembled shall also have the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or by that of the respective states.—fixing the standard of weights and measures throughout the United States.—regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits be not infringed or violated—establishing and regulating post offices from one state to another, throughout all the United States, and exacting such postage on the papers passing through the same as may be requisite to defray the expenses of the said office—appointing all officers of the land forces, in the service of the United States, excepting regimental officers—appointing all the officers of the naval forces, and commissioning all officers whatever in the service of the United States—making rules for the government and regulation of the said land and naval forces, and directing their operations.

The United States in Congress assembled shall have authority to appoint a committee, to sit in the recess of Congress, to be denominated "a Committee of the States," and to consist of one delegate from each state; and to appoint such other committees and civil officers as may be necessary for managing the general affairs of the United States under their direction—to appoint one of their number to preside, provided that no person be allowed to serve in the office of president more than one year in any term of three years; to ascertain the necessary sums of

money to be raised for the service of the United States, and to appropriate and apply the same for defraying the public expenses—to borrow money, or emit bills on the credit of the United States, transmitting every half year to the respective states an account of the sums of money so borrowed or emitted,—to build and equip a navy—to agree upon the number of land forces, and to make requisitions from each state for its quota, in proportion to the number of white inhabitants in such state; which requisition shall be binding, and thereupon the legislature of each state shall appoint the regimental officers, raise the men and clothe, arm and equip them in a soldierlike manner, at the expense of the United States; and the officers and men so clothed, armed and equipped shall march to the place appointed, and within the time agreed on by the United States in Congress assembled: but if the United States in Congress assembled shall, on consideration of circumstances judge proper that any state should not raise men, or should raise a smaller number than its quota, and that any other state should raise a greater number of men than the quota thereof, such extra number shall be raised, officered, clothed, armed and equipped in the same manner as the quota of such state, unless the legislature of such state shall judge that such extra number can not be safely spared out of the same, in which case they shall raise, officer, clothe, arm and equip as many of such extra number as they judge can be safely spared. And the officers and men so clothed, armed and equipped, shall march to the place appointed, and within the time agreed on by the United States in Congress assembled.

The United States in Congress assembled shall never engage in a war, nor grant letters of marque and reprisal in time of peace, nor enter into any treaties or alliances, nor coin money, nor regulate the value thereof, nor ascertain the sums and expenses necessary for the defense and welfare of the United States, or any of them, nor emit bills, nor borrow money on the credit of the United States, nor appropriate money, nor agree upon the number of vessels of war, to be built or purchased, or the number of land or sea forces to be raised, nor appoint a commander-in-chief of the army or navy, unless nine states assent to the same: nor shall a question on any other point, except for adjourning from day to day be determined, unless by the votes of a majority of the United States in Congress assembled.

The Congress of the United States shall have power to adjourn to any time within the year, and to any place within the United States, so that no period of adjournment be for a longer duration than the space of six months; and shall publish the journal of their proceedings monthly, except such parts thereof relating to treaties, alliances or military operations, as in their judgment require secrecy; and the yeas and nays of the delegates of each state on any question shall be entered on the journal, when it is desired by any delegate; and the delegates of a state, or any of them, at his or their request, shall be furnished

with a transcript of the said journal, except such parts as are above excepted, to lay before the legislatures of the several states.

**ARTICLE X.** The Committee of the States, or any nine of them, shall be authorized to execute, in the recess of Congress, such of the powers of Congress as the United States in Congress assembled, by the consent of nine states, shall from time to time think expedient to vest them with; provided that no power be delegated to the said committee, for the exercise of which, by the Articles of Confederation, the voice of nine states in the Congress of the United States assembled is requisite.

**ARTICLE XI.** Canada acceding to this Confederation, and joining in the measures of the United States, shall be admitted into, and entitled to all the advantages of this Union: but no other colony shall be admitted into the same, unless such admission be agreed to by nine states.

**ARTICLE XII.** All bills of credit emitted, moneys borrowed and debts contracted by, or under the authority of Congress, before the assembling of the United States, in pursuance of the present Confederation, shall be deemed and considered as a charge against the United States, for payment and satisfaction whereof the said United States, and the public faith are hereby solemnly pledged.

**ARTICLE XIII.** Every state shall abide by the determinations of the United States in Congress assembled, on all questions which by this Confederation are submitted to them. And the Articles of this Confederation shall be inviolably observed by every state, and the Union shall be perpetual; nor shall any alteration at any time hereafter be made in any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the legislatures of every state.

AND WHEREAS it hath pleased the Great Governor of the world to incline the hearts of the legislatures we respectively represent in Congress, to approve of, and to authorize us to ratify the said Articles of Confederation and perpetual Union. Know ye that we the undersigned delegates, by virtue of the power and authority to us given for that purpose, do by these presents, in the name and in behalf of our respective constituents, fully and entirely ratify and confirm each and every of the said Articles of Confederation and perpetual Union, and all and singular the matters and things therein contained: and we do further solemnly plight and engage the faith of our respective constituents, that they shall abide by the determinations of the United States in Congress assembled, on all questions, which by the said Confederation are submitted to them. And that the articles thereof shall be inviolably observed by the states we respectively represent, and that the Union shall be perpetual.

IN WITNESS WHEREOF we have hereunto set our hands in Congress. Done at Philadelphia in the State of Pennsylvania the ninth day of

July in the year of our Lord one thousand seven hundred and seventy-eight, and in the third year of the independence of America.

JOSIAH BARTLETT	JOHN WENTWORTH, JUNE. August 8th, 1778	On the part and behalf of the State of New Hampshire.
JOHN HANCOCK SAMUEL ADAMS ELBRIDGE GERRY	FRANCIS DANA JAMES LOVELL SAMUEL HOLTON	On the part and behalf of the State of Massachusetts Bay.
WILLIAM ELLERY HENRY MARCHANT	JOHN COLLINS	On the part and behalf of the State of Rhode Island and Providence Plantations.
ROGER SHERMAN SAMUEL HUNTINGTON OLIVER WOLCOTT	TITUS HOSMER ANDREW ADAMS	On the part and behalf of the State of Connecticut.
JAS. DUANE FRA. LEWIS	WM. DUER GOUV. MORRIS	On the part and behalf of the State of New York.
JNO. WITHERSPOON	NATHL. SCUDDER	On the part and behalf of the State of New Jersey, Novr. 26, 1778.
ROBT. MORRIS DANIEL ROBERDEAU JONA. BAYARD SMITH	WILLIAM CLINGAN JOSEPH REED 22d July, 1778	On the part and behalf of the State of Pennsylvania.
THO. M'KEAN Feby. 12, 1779	JOHN DICKINSON May 5th, 1779 NICHOLAS VAN DYKE	On the part and behalf of the State of Delaware.
JOHN HANSON March 1, 1781	DANIEL CARROLL Mar. 1, 1781	On the part and behalf of the State of Maryland.
RICHARD HENRY LEE JOHN BANISTER THOMAS ADAMS	JNO. HARVIE FRANCIS LIGHTFOOT LEE	On the part and behalf of the State of Virginia.
JOHN PENN July 21st, 1778	CORN. HARNETT JNO. WILLIAMS	On the part and behalf of the State of North Carolina.
HENRY LAURENS WILLIAM HENRY DRAYTON JNO. MATHEWS	RICHD. HUTSON THOS. HEYWARD, JUNR.	On the part and behalf of the State of South Carolina.
JNO. WALTON 24th July, 1778	EDWD. TELFAIR EDWD. LANGWORTHY	On the part and behalf of the State of Georgia.

The Articles of Confederation were ratified by the States as follows:

South Carolina	Feb. 5, 1778	Massachusetts	Mar. 10, 1778
New York	Feb. 6, 1778	North Carolina	April 5, 1778
Rhode Island	Feb. 9, 1778	New Jersey	Nov. 19, 1778
Connecticut	Feb. 12, 1778	Virginia	Dec. 15, 1778
Georgia	Feb. 26, 1778	Delaware	Feb. 1, 1779
New Hampshire	Mar. 4, 1778	Maryland	Jan. 30, 1781
Pennsylvania	Mar. 5, 1778		

The ratification by all the States was formally announced to the public March 1, 1781.

## PRESIDENTS AND VICE PRESIDENTS OF THE UNITED STATES—1789-1958

No.	Name	PRESIDENTS		VICE PRESIDENTS		Date of Inauguration
		No.	Date of Inauguration	Name	Date of Inauguration	
1	George Washington (George Washington (2d term))	1	April 30, 1789	John Adams (John Adams (2d term))	April 30, 1789	April 30, 1789
2	John Adams	2	March 4, 1793	John Adams	March 4, 1793	March 4, 1793
3	Thomas Jefferson (Thomas Jefferson (2d term))	3	March 4, 1797	Thomas Jefferson	March 4, 1797	March 4, 1797
4	James Madison (James Madison (2d term))	4	March 4, 1805	Aaron Burr (George Clinton (2d term)) <sup>1</sup>	March 4, 1805	March 4, 1805
5	James Monroe (James Monroe (2d term))	5	March 4, 1813	Elibridge Gerry (2d term) <sup>2</sup>	March 4, 1809	March 4, 1809
6	John Quincy Adams (Andrew Jackson (2d term))	6	March 4, 1817	Daniel D. Tompkins (Daniel D. Tompkins (2d term))	March 4, 1813	March 4, 1813
7	John Quincy Adams (Andrew Jackson (2d term))	7	March 4, 1825	John C. Calhoun (John C. Calhoun (2d term)) <sup>3</sup>	March 4, 1817	March 4, 1817
8	Martin Van Buren	8	March 4, 1833	Martin Van Buren	March 4, 1821	March 4, 1821
9	William Henry Harrison	9	March 4, 1837	Richard M. Johnson	March 4, 1829	March 4, 1829
10	John Tyler <sup>4</sup>	10	March 4, 1841	John Tyler <sup>5</sup>	March 4, 1837	March 4, 1837
11	James K. Polk	11	April 6, 1845	George M. Dallas	March 4, 1845	March 4, 1845
12	Zachary Taylor <sup>6</sup>	12	March 4, 1849	Millard Fillmore <sup>7</sup>	March 4, 1849	March 4, 1849
13	Millard Fillmore <sup>7</sup>	13	July 10, 1850	William R. King <sup>8</sup>	March 4, 1853	March 4, 1853
14	Franklin Pierce	13	March 4, 1853	John C. Breckinridge	March 4, 1857	March 4, 1857
15	James Buchanan	14	March 4, 1857	Hannibal Hamlin	March 4, 1861	March 4, 1861
16	Abraham Lincoln	15	March 4, 1861	Andrew Johnson <sup>9</sup>	March 4, 1865	March 4, 1865
17	Abraham Lincoln (2d term) <sup>9</sup>	16	March 4, 1865	Schuyler Colfax	March 4, 1869	March 4, 1869
18	Andrew Johnson <sup>10</sup>	17	April 15, 1865	Henry Wilson <sup>11</sup>	March 4, 1873	March 4, 1873
19	Ulysses S. Grant (2d term)	18	March 4, 1869	William A. Wheeler	March 4, 1877	March 4, 1877
20	Rutherford B. Hayes	19	March 4, 1877	Chester A. Arthur <sup>12</sup>	March 4, 1881	March 4, 1881
21	James A. Garfield <sup>12</sup>	20	March 4, 1881	Thomas A. Hendricks <sup>13</sup>	March 4, 1885	March 4, 1885
22	Chester A. Arthur <sup>13</sup>	21	Sept. 20, 1881	Levi P. Morton	March 4, 1889	March 4, 1889
23	Grover Cleveland <sup>14</sup>	22	March 4, 1889	Adlai E. Stevenson	March 4, 1893	March 4, 1893
24	Benjamin Harrison (2d term) <sup>14</sup>	23	March 4, 1893	Garret A. Hobart <sup>15</sup>	March 4, 1897	March 4, 1897
25	Grover Cleveland (2d term) <sup>14</sup>	24	March 4, 1897	Theodore Roosevelt <sup>16</sup>	March 4, 1901	March 4, 1901
26	William McKinley (2d term) <sup>17</sup>	25	March 4, 1901	Charles W. Fairbanks	March 4, 1905	March 4, 1905
27	Theodore Roosevelt (2d term)	26	Sept. 14, 1901	James S. Sherman <sup>18</sup>	March 4, 1909	March 4, 1909
28	William H. Taft	27	March 4, 1909			

27	(Woodrow Wilson (2d term))	March 4, 1913	28	[Thomas R. Marshall (2d term)]
28	Woodrow G. Harding <sup>25</sup>	March 4, 1921	29	[Thomas R. Marshall (2d term), Calvin Coolidge <sup>26</sup> ]
29	Calvin Coolidge <sup>26</sup> (2d term)	March 4, 1921	30	Charles G. Dawes <sup>27</sup>
30	Herbert C. Hoover <sup>28</sup>	Aug. 3, 1923	31	Charles Curtis <sup>29</sup>
31	Franklin Delano Roosevelt <sup>30</sup> (2d term)	March 4, 1925	32	John N. Garner <sup>31</sup> (John N. Garner (2d term))
	Franklin Delano Roosevelt <sup>30</sup> (3d term)	March 4, 1929		March 4, 1929
	Franklin Delano Roosevelt <sup>30</sup> (4th term) <sup>32</sup>	March 4, 1933		March 4, 1933
32	Harry S. Truman <sup>32</sup>	March 4, 1937	33	Henry A. Wallace <sup>33</sup>
33	Harry S. Truman <sup>32</sup> (2d term)	Jan. 20, 1941	34	Harry S. Truman <sup>34</sup>
	Dwight D. Eisenhower <sup>34</sup> (2d term)	April 12, 1945		Jan. 20, 1949
	Dwight D. Eisenhower <sup>34</sup> (2d term)	Jan. 20, 1953	35	Alben W. Barkley <sup>35</sup>
		Jan. 20, 1957	36	Richard M. Nixon <sup>36</sup> (Richard M. Nixon (2d term))

<sup>1</sup> George Clinton died in office on April 20, 1812.

<sup>2</sup> Elbridge Gerry died in office on November 28, 1814.

<sup>3</sup> John C. Calhoun resigned as Vice President on December 28, 1832, to become United States Senator.

<sup>4</sup> William Henry Harrison died in office on April 4, 1841.

<sup>5</sup> John Tyler became President on April 6, 1841, succeeding William Henry Harrison, deceased.

<sup>6</sup> Zachary Taylor died in office on July 9, 1850, succeeding Zachary Taylor, deceased.

<sup>7</sup> Millard Fillmore became President on July 9, 1850, succeeding Zachary Taylor, deceased.

<sup>8</sup> William R. King died in office on April 18, 1853.

<sup>9</sup> Abraham Lincoln died in office on April 15, 1865, as the result of gunshot wounds inflicted by assassin John Wilkes Booth on April 14, 1865.

<sup>10</sup> Andrew Johnson became President on April 15, 1865, succeeding Abraham Lincoln, deceased.

<sup>11</sup> Henry Wilson died in office on November 22, 1876.

<sup>12</sup> James A. Garfield died in office on September 19, 1881, from bullet wounds inflicted by assassin Charles J. Guiteau on July 2, 1881.

<sup>13</sup> Chester A. Arthur became President on September 20, 1881, succeeding James A. Garfield, deceased.

<sup>14</sup> Grover Cleveland's two terms as President were not consecutive.

<sup>15</sup> Thomas A. Hendricks died in office on November 25, 1885.

<sup>16</sup> Garret A. Hobart died in office on November 21, 1896.

<sup>17</sup> William McKinley died in office on September 14, 1901, from bullet wounds inflicted by assassin Leon Czolgosz on September 6, 1901.

<sup>18</sup> Theodore Roosevelt became President on September 14, 1901, succeeding William McKinley, deceased.

<sup>19</sup> James S. Sherman died in office on October 30, 1912.

<sup>20</sup> Warren G. Harding died in office on August 2, 1923.

<sup>21</sup> Calvin Coolidge became President on August 3, 1923, succeeding Warren G. Harding, deceased.

<sup>22</sup> Franklin Delano Roosevelt died in office on April 12, 1945.

<sup>23</sup> Harry S. Truman became President on April 12, 1945, succeeding Franklin D. Roosevelt, deceased.



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# **Constitution of the United States**

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# Constitution of the United States

(In Convention, September 17, 1787)

## PREAMBLE

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

## ARTICLE I. LEGISLATIVE DEPARTMENT \*

### Section 1. Congress \*

#### *Powers Are Vested in Senate and House \**

1.\* All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

### Section 2. House of Representatives

#### *Election of Representatives*

1. The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislature.

#### *Qualifications of Representatives*

2. No person shall be a Representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State in which he shall be chosen.

#### *Apportionment of Representatives*

3. Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the

\* Headings and paragraph numbers have been inserted to assist the reader, and are not to be construed as a part of the Constitution. The original Constitution contains only article and section numbers. The modern style of capitalization has been used in the printing of this edition; and obsolete spelling of such words as "chuse" and "controul" has been changed to conform to the modern spelling prescribed by Webster's Dictionary. With these exceptions, we have followed the literal text of the *Constitution of the United States of America prepared by the Legislative Reference Service of the Library of Congress, Edwin S. Corwin, Editor, being Senate Document No. 170 of the Eighty-second Congress, Second Session.*

whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the Congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative; and until such enumeration shall be made, the State of New Hampshire shall be entitled to choose three, Massachusetts eight, Rhode Island and Providence Plantations one, Connecticut five, New York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three.

This clause has been superseded, so far as it relates to representation, by Section 2 of the Fourteenth Amendment to the Constitution.

#### Vacancies

4. When vacancies happen in the representation from any State, the executive authority thereof shall issue writs of election to fill such vacancies.

#### Officers of the House—Impeachment

5. The House of Representatives shall choose their Speaker and other officers; and shall have the sole power of impeachment.

### Section 3. The Senate

#### Number of Senators

1. The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote.

Superseded by Amendment XVII.

#### Classification of Senators

2. Immediately after they shall be assembled in consequence of the first election, they shall be divided as equally as may be into three classes. The seats of the Senators of the first class shall be vacated at the expiration of the second year, of the second class at the expiration of the fourth year, and of the third class at the expiration of the sixth year, so that one third may be chosen every second year; and if vacancies happen by resignation, or otherwise, during the recess of the Legislature of any State, the executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies.

Modified by Amendment XVII.

#### Qualifications of Senators

3. No person shall be a Senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States,

and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

#### ***President of Senate***

4. The Vice President of the United States shall be President of the Senate, but shall have no vote, unless they be equally divided.

#### ***Officers of Senate***

5. The Senate shall choose their other officers, and also a President pro Tempore, in the absence of the Vice President, or when he shall exercise the office of President of the United States.

#### ***Trial of Impeachment***

6. The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside: And no person shall be convicted without the concurrence of two-thirds of the members present.

#### ***Judgment on Conviction of Impeachment***

7. Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States: but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

### **Section 4. Election of Senators and Representatives— Meetings of Congress**

#### ***Election of Members of Congress***

1. The times, places and manner of holding elections for Senators and Representatives, shall be prescribed in each State by the Legislature thereof; but the Congress may at any time by law make or alter such regulations, except as to the places of choosing Senators.

*See Amendment XX.*

#### ***Congress to Meet Annually***

2. The Congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

*Changed to January 3d by Amendment XX.*

## Section 5. Powers and Duties of Each House of Congress

### *Sole Judge of Qualifications of Members*

1. Each House shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each House may provide.

### *Rules of Proceedings—Punishment of Members*

2. Each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

### *Journals*

3. Each House shall keep a Journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either House on any question shall, at the desire of one-fifth of those present, be entered on the Journal.

### *Adjournment*

4. Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

## Section 6. Compensation, Privileges and Disabilities, of Senators and Representatives

### *Compensation—Privileges*

1. The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place.

### *Disability to Hold Other Offices*

2. No Senator or Representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased during such time; and no person holding any office under the United States, shall be a member of either House during his continuance in office.

See also Section 3 of the Fourteenth Amendment.

## Section 7. Mode of Passing Laws

### SPECIAL PROVISION AS TO REVENUE LAWS

1. All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

#### Laws, How Enacted

2. Every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve he shall sign it, but if not he shall return it, with his objections to that House in which it shall have originated, who shall enter the objections at large on their Journal, and proceed to reconsider it. If after such reconsideration two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law. But in all such cases the votes of both Houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the Journal of each House respectively. If any bill shall not be returned by the President within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Congress by their adjournment prevent its return, in which case it shall not be a law.

#### Resolutions, Etc.

3. Every order, resolution, or vote to which the concurrence of the Senate and House of Representatives may be necessary (except on a question of adjournment) shall be presented to the President of the United States; and before the same shall take effect, shall be approved by him, or being disapproved by him, shall be repassed by two-thirds of the Senate and House of Representatives, according to the rules and limitations prescribed in the case of a bill.

## Section 8. Powers Granted to Congress

#### Taxation

1. The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defense and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States;

#### Loans

2. To borrow money on the credit of the United States;

**Commerce**

3. To regulate commerce with foreign nations, and among the several States, and with the Indian tribes;

**Naturalization and Bankruptcies**

4. To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States;

**Coin**

5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures;

**Counterfeiting**

6. To provide for the punishment of counterfeiting the securities and current coin of the United States;

**Post Office**

7. To establish post offices and post roads;

**Patents and Copyrights**

8. To promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries;

**Courts**

9. To constitute tribunals inferior to the Supreme Court;

**Piracies**

10. To define and punish piracies and felonies committed on the high seas, and offenses against the law of nations;

**War**

11. To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

**Army**

12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

**Navy**

13. To provide and maintain a navy;

**Military and Naval Rules**

14. To make rules for the government and regulation of the land and naval forces;

**Militia, Calling Forth**

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;

**Militia, Organizing and Arming**

16. To provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States respectively, the appointment of the officers, and the authority of training the militia according to the discipline prescribed by Congress;

**Federal District and Other Places**

17. To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings;—And

**Make Laws to Carry Out Foregoing Powers**

18. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof.

For other powers, see Article II, Section 1; Article III, Sections 2 and 3; Article IV, Sections 1-3; Article V; and Amendments XIII-XVI and XIX-XXI.

**Section 9. Limitations on Powers Granted to the United States****Slave Trade**

1. The migration or importation of such persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the year one thousand eight hundred and eight, but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

**Habeas Corpus**

2. The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or invasion the public safety may require it.

***Ex Post Facto Law***

3. No bill of attainder or ex post facto law shall be passed.

***Direct Taxes***

4. No capitation, or other direct, tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

***Duties on Exports***

5. No tax or duty shall be laid on articles exported from any State.

***No Commercial Discrimination to Be Made Between States***

6. No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another; nor shall vessels bound to, or from, one State, be obliged to enter, clear or pay duties in another.

***Money, How Drawn From Treasury***

7. No money shall be drawn from the Treasury, but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

***Titles of Nobility***

8. No title of nobility shall be granted by the United States: And no person holding any office of profit or trust under them, shall, without the consent of the Congress, accept of any present, emolument, office, or title, of any kind whatever, from any King, Prince, or foreign State.

For other limitations see Amendments I-X.

## Section 10. Powers Prohibited to the States

***Powers Prohibited, Absolutely***

1. No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

***Powers Concerning Duties on Imports or Exports***

2. No State shall, without the consent of the Congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws: and the net produce of all duties and imposts, laid by any State on imports or exports, shall be for the use of the Treasury of the United States; and all such laws shall be subject to the revision and control of the Congress.

**Powers Permitted With Consent of Congress**

3. No State shall, without the consent of Congress, lay any duty of tonnage, keep troops, or ships of war in time of peace, enter into any agreement or compact with another State, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

**ARTICLE II. EXECUTIVE DEPARTMENT****Section 1. The President****Executive Power Vested in President—Term of Office**

1. The executive power shall be vested in a President of the United States of America. He shall hold his office during the term of four years, and, together with the Vice President, chosen for the same term, be elected, as follows

**Appointment and Number of Presidential Electors**

2. Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

**Mode of Electing President and Vice President**

3. The electors shall meet in their respective States, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case, after the choice of the

President, the person having the greatest number of votes of the electors shall be the Vice President. But if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President.

This paragraph has been superseded by the Twelfth Amendment to the Constitution. See Amendment XX.

#### ***Time of Choosing Electors and Casting Electoral Vote***

4. The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

#### ***Qualifications of President***

5. No person except a natural-born citizen, or a citizen of the United States, at the time of the adoption of this Constitution, shall be eligible to the office of President; neither shall any person be eligible to that office who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

See also Article II, Section 1, and Fourteenth Amendment.

#### ***Presidential Succession***

6. In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability, both of the President and Vice President, declaring what officer shall then act as President, and such officer shall act accordingly, until the disability be removed, or a President shall be elected.

NOTE—*United States Statutes at Large*, Volume 62, Part 1, Public Laws, Chapter 644, June 25, 1948, provides in part as follows:

§ 19. (a) (1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is neither a President nor Vice President to discharge the powers and duties of the office of President, then the Speaker of the House of Representatives shall, upon his resignation as Speaker and as Representative in Congress, act as President.

(2) The same rule shall apply in the case of the death, resignation, removal from office, or inability of an individual acting as President under this subsection.

(b) If, at the time when under subsection (a) of this section a Speaker is to begin the discharge of the powers and duties of the office of President, there is no Speaker, or the Speaker fails to qualify as Acting President, then the President pro Tempore of the Senate shall, upon his resignation as President pro Tempore and as Senator, act as President.

(c) An individual acting as President under subsection (a) or subsection (b) of this section shall continue to act until the expiration of the then current Presidential term, except that—

(1) if his discharge of the powers and duties of the office is founded in whole or in part on the failure of both the President-elect and the Vice-President-elect to qualify, then he shall act only until a President or Vice President qualifies; and

(2) if his discharge of the powers and duties of the office is founded in whole or in part on the inability of the President or Vice President, then he shall act only until the removal of the disability of one of such individuals.

(d) (1) If, by reason of death, resignation, removal from office, inability, or failure to qualify, there is no President pro Tempore to act as President under subsection (b) of this section, then the officer of the United States who is highest on the following list, and who is not under disability to discharge the powers and duties of the office of President shall act as President: Secretary of State, Secretary of the Treasury, Secretary of Defense, Attorney General, Postmaster General, Secretary of the Interior, Secretary of Agriculture, Secretary of Commerce, Secretary of Labor.

(2) An individual acting as President under this subsection shall continue so to do until the expiration of the then current Presidential term, but not after a qualified and prior-entitled individual is able to act, except that the removal of the disability of an individual higher on the list contained in paragraph (1) of this subsection or the ability to qualify on the part of an individual higher on such list shall not terminate his service.

(3) The taking of the oath of office by an individual specified in the list in paragraph (1) of this subsection shall be held to constitute his resignation from the office by virtue of the holding of which he qualifies to act as President.

(e) Subsections (a), (b), and (d) of this section shall apply only to such officers as are eligible to the office of President under the Constitution. Subsection (d) of this section shall apply only to officers appointed, by and with the advice and consent of the Senate, prior to the time of the death, resignation, removal from office, inability, or failure to qualify, of the President pro Tempore, and only to officers not under impeachment by the House of Representatives at the time the powers and duties of the office of President devolve upon them.

(f) During the period that any individual acts as President under this section, his compensation shall be at the rate then provided by law in the case of the President.

### **Salary of President**

7. The President shall, at stated times, receive for his services, a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected, and he shall not receive within that period any other emolument from the United States, or any of them.

### **Oath of Office of President**

8. Before he enter on the execution of his office, he shall take the following oath or affirmation:—"I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

## **Section 2. Powers of the President**

### **Commander in Chief**

1. The President shall be Commander in Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices, and he shall have power to grant reprieves and pardons for offenses against the United States, except in cases of impeachment.

***Treaties and Appointments***

2. He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, Judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of departments.

***Filling Vacancies***

3. The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session.

**Section 3. Duties of the President*****Message to Congress—Adjourn and Call Special Session***

He shall from time to time give to the Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient; he may, on extraordinary occasions, convene both Houses, or either of them, and in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers; he shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

See also Article I, Section 5.

**Section 4. Removal of Executive and Civil Officers*****Impeachment of President and Other Officers***

The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

See also Article I, Sections 2 and 3.

**ARTICLE III. JUDICIAL DEPARTMENT****Section 1. Judicial Powers Vested in Federal Courts*****Courts—Terms of Office and Salary of Judges***

The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and

inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services, a compensation, which shall not be diminished during their continuance in office.

## Section 2. Jurisdiction of United States Courts

### Cases That May Come Before United States Courts

1. The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority;—to all cases affecting ambassadors, other public ministers and consuls;—to all cases of admiralty and maritime jurisdiction;—to controversies to which the United States shall be a party;—to controversies between two or more States;—between a State and citizens of another State;—between citizens of different States;—between citizens of the same State claiming lands under grants of different States, and between a State, or the citizens thereof, and foreign States, citizens or subjects.

See also Eleventh Amendment.

### Jurisdiction of Supreme and Appellate Courts

2. In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned, the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

### Trial of Crimes

3. The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the State where the said crimes shall have been committed; but when not committed within any State, the trial shall be at such place or places as the Congress may by law have directed.

See also Fifth, Sixth, Seventh, and Eighth Amendments.

## Section 3. Treason

### Treason Defined

1. Treason against the United States, shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort.

### Conviction

2. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

**Punishment**

3. The Congress shall have power to declare the punishment of treason, but no attainer of treason shall work corruption of blood, or forfeiture except during the life of the person attainted.

**ARTICLE IV. THE STATES AND THE FEDERAL GOVERNMENT****Section 1. Official Acts of the States****Full Faith and Credit**

Full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State. And the Congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

See also Fourteenth Amendment.

**Section 2. Citizens of the States****Interstate Privileges of Citizens**

1. The citizens of each State shall be entitled to all privileges and immunities of citizens in the several States.

**Fugitives From Justice**

2. A person charged in any State with treason, felony, or other crime, who shall flee from justice, and be found in another State, shall on demand of the executive authority of the State from which he fled, be delivered up, to be removed to the State having jurisdiction of the crime.

**Fugitives From Service**

3. No person held to service or labor in one State, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor, but shall be delivered up on claim of the party to whom such service or labor may be due.

"Person" here includes slave. This was the basis of the Fugitive Slave Laws of 1793 and 1850. It is now superseded by the Thirteenth Amendment, by which slavery is prohibited.

**Section 3. New States****Admission or Division of States**

1. New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State; nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned as well as of the Congress.

**Control of the Property and Territory of the Union**

2. The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be

so construed as to prejudice any claims of the United States, or of any particular State.

#### Section 4. Protection of States Guaranteed

##### *Republican Form of Government*

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the executive (when the Legislature cannot be convened) against domestic violence.

### ARTICLE V. AMENDMENTS

##### *Amendments, How Proposed and Adopted*

The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; provided that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

### ARTICLE VI. GENERAL PROVISIONS

##### *The Public Debt*

1. All debts contracted and engagements entered into, before the adoption of this Constitution, shall be as valid against the United States under this Constitution, as under the Confederation.

See also Fourteenth Amendment, Section 4.

##### *Supreme Law of the Land*

2. This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

##### *Oath of Office—No Religious Test Required*

3. The Senators and Representatives before mentioned, and the members of the several State Legislatures, and all executive and judicial officers, both of the United States and of the several States, shall be bound by oath or affirmation, to support this Constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII. RATIFICATION OF THE CONSTITUTION \*

### *Ratification of Nine States Required*

The ratification of the conventions of nine States, shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

DONE in convention by the unanimous consent of the States present the seventeenth day of September in the year of our Lord one thousand seven hundred and eighty-seven and of the Independence of the United States of America the twelfth. In witness whereof we have hereunto subscribed our names,†

**G<sup>o</sup>; WASHINGTON—President  
and deputy from Virginia**

New Hampshire	JOHN LANGDON NICHOLAS GILMAN
Massachusetts	NATHANIEL GORHAM RUFUS KING
Connecticut	W <sup>M</sup> : SAM <sup>L</sup> : JOHNSON ROGER SHERMAN
New York : : :	ALEXANDER HAMILTON
New Jersey	WIL: LIVINGSTON DAVID BREARLEY. W <sup>M</sup> PATERSON. JONA: DAYTON
Pennsylvania	B FRANKLIN THOMAS MIFFLIN ROB <sup>T</sup> : MORRIS GEO. CLYMER THO <sup>S</sup> : FITZSIMONS JARED INGERSOLL JAMES WILSON GOUV MORRIS

Delaware	GEO: READ GUNNING BEDFORD jun JOHN DICKINSON RICHARD BASSETT JACO: BROOM
Maryland	JAMES M <sup>C</sup> HENRY DAN OF ST THO <sup>S</sup> JENIFER DAN <sup>L</sup> CARROLL
Virginia	JOHN BLAIR— JAMES MADISON Jr.
North Carolina	WM <sup>M</sup> BLOUNT RICH <sup>P</sup> DOBBS SPAIGHT. HU WILLIAMSON
South Carolina	J. RUTLEDGE CHARLES COTESWORTH PINCKNEY CHARLES PINCKNEY = = PIERCE BUTLER
Georgia	WILLIAM FEW ABR BALDWIN

The word, "the," being interlined between the seventh and eighth lines of the first page, the word "thirty" being partly written on an erasure in the fifteenth line of the first page, the words "is tried" being interlined between the thirty-second and thirty-third lines of the first page and the word "the" being interlined between the forty-third and forty-fourth lines of the second page.

Attest WILLIAM JACKSON Secretary

\* The Constitution was ratified by the States in the following order:

1. Delaware—December 7, 1787.
2. Pennsylvania—December 12, 1787.
3. New Jersey—December 19, 1787.
4. Georgia—January 2, 1788.
5. Connecticut—January 9, 1788.
6. Massachusetts—February 6, 1788.
7. Maryland—April 28, 1788.
8. South Carolina—May 23, 1788.
9. New Hampshire—June 21, 1788.
10. Virginia—June 25, 1788.
11. New York—July 26, 1788.
12. North Carolina—November 21, 1789.
12. Rhode Island—May 29, 1790.

† There were sixty-five delegates chosen to the convention: ten did not attend; sixteen declined or failed to sign; thirty-nine signed. Rhode Island sent no delegates.

# **Amendments**

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## **AMENDMENT I**

### **Restrictions on Powers of Congress**

[SECTION 1.\*] Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Proposed September 25, 1789; ratified December 15, 1791.

## **AMENDMENT II**

### **Right to Bear Arms**

[SECTION 1.] A well-regulated militia, being necessary to the security of a free State, the right of the people to keep and bear arms, shall not be infringed.

Proposed September 25, 1789; ratified December 15, 1791.

## **AMENDMENT III**

### **Billeting of Soldiers**

[SECTION 1.] No soldier shall, in time of peace be quartered in any house, without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

Proposed September 25, 1789; ratified December 15, 1791.

## **AMENDMENT IV**

### **Seizures, Searches and Warrants**

[SECTION 1.] The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Proposed September 25, 1789; ratified December 15, 1791.

\* Words in brackets added.

**AMENDMENT V****Criminal Proceedings and Condemnation of Property**

[SECTION 1.] No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Proposed September 25, 1789; ratified December 15, 1791.

**AMENDMENT VI****Mode of Trial in Criminal Proceedings**

[SECTION 1.] In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

Proposed September 25, 1789; ratified December 15, 1791.

**AMENDMENT VII****Trial by Jury**

[SECTION 1.] In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

Proposed September 25, 1789; ratified December 15, 1791.

**AMENDMENT VIII****Bails—Fines—Punishments**

[SECTION 1.] Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Proposed September 25, 1789; ratified December 15, 1791.

**AMENDMENT IX****Certain Rights Not Denied to the People**

[SECTION 1.] The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

Proposed September 25, 1789; ratified December 15, 1791.

**AMENDMENT X****State Rights**

[SECTION 1.] The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Proposed September 25, 1789; ratified December 15, 1791.

**AMENDMENT XI****Judicial Powers**

[SECTION 1.] The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State.

Proposed March 4, 1794; ratified February 7, 1795; declared ratified January 8, 1798.

**AMENDMENT XII****Election of President and Vice President**

[SECTION 1.] The electors shall meet in their respective States and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate;—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted;—The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by States, the

representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President—The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

Proposed December 12, 1803; declared ratified September 25, 1804.

### AMENDMENT XIII

#### *Slavery*

SECTION 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

SECTION 2. Congress shall have power to enforce this article by appropriate legislation.

Proposed January 31, 1865; ratified December 6, 1865; certified December 18, 1865.

### AMENDMENT XIV

#### *Citizenship, Representation, and Payment of Public Debt*

##### *Citizenship*

SECTION 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

##### *Apportionment of Representatives*

SECTION 2. Representatives shall be apportioned among the several States according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But

when the right to vote at any election for the choice of electors for President and Vice President of the United States, Representatives in Congress, the executive and judicial officers of a State, or the members of the Legislature thereof, is denied to any of the male inhabitants of such State, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State.

***Disqualification for Public Office***

SECTION 3. No person shall be a Senator or Representative in Congress, or elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath, as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But Congress may by a vote of two-thirds of each House, remove such disability.

***Public Debt, Guarantee of***

SECTION 4. The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any State shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

***Power of Congress***

SECTION 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Proposed June 13, 1866; ratified July 9, 1868; certified July 28, 1868.

## AMENDMENT XV

### Elective Franchise

***Right of Citizens to Vote***

SECTION 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude.

**Power of Congress**

SECTION 2. The Congress shall have power to enforce this article by appropriate legislation.

Proposed February 26, 1869; ratified February 3, 1870; certified March 30, 1870.

**AMENDMENT XVI****Income Tax—Congress Given Power to Lay and Collect**

[SECTION 1.] The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

Proposed July 12, 1909; ratified February 3, 1913; certified February 25, 1913.

**AMENDMENT XVII****Popular Election of Senators**

[SECTION 1.] The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each State shall have the qualifications requisite for electors of the most numerous branch of the State Legislatures.

[SECTION 2.] When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: *Provided*, That the Legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the Legislature may direct.

[SECTION 3.] This amendment shall not be so construed as to affect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

Proposed May 13, 1912; ratified April 8, 1913; certified May 31, 1913.

NOTE—The seventeenth amendment was proposed as a direct amendment of Article I, Section 8, of the Constitution.

## AMENDMENT XVIII

### Prohibition—States Given Concurrent Power to Enforce

SECTION 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

SEC. 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Proposed December 18, 1917; ratified January 16, 1919; certified January 29, 1919; effective January 29, 1920. For repeal see Amendment XXI.

## AMENDMENT XIX

### Equal Suffrage

[SECTION 1.] The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

[SECTION 2.] Congress shall have power to enforce this article by appropriate legislation.

Proposed June 4, 1919; ratified August 18, 1920; certified August 26, 1920.

## AMENDMENT XX

### Commencement of Congressional and Presidential Terms

#### *End of Terms*

SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

#### *Assembling of Congress*

SEC. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

#### *Congress Provides for Acting President*

SEC. 3. If, at the time fixed for the beginning of the term of the President, the President-elect shall have died, the Vice-President-elect

shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President-elect shall have failed to qualify, then the Vice-President-elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President-elect nor a Vice-President-elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

#### **Congress Has Power Over Unusual Elections**

**SEC. 4.** The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

#### **Date in Effect**

**SEC. 5.** Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

#### **Conditions of Ratification**

**SEC. 6.** This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of three-fourths of the several States within seven years from the date of its submission.

Proposed March 2, 1932; ratified January 23, 1933; certified February 6, 1933.

## **AMENDMENT XXI**

### **Repeal of Prohibition**

#### **Repeal of 18th Amendment**

**SECTION 1.** The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

#### **Control of Interstate Liquor Transportation**

**SEC. 2.** The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

***Condition of Ratification***

SEC. 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

Proposed February 20, 1933; ratified December 5, 1933; certified December 5, 1933.

Ratified by the California State Convention on July 24, 1933.

**AMENDMENT XXII****Terms of Office of the President*****Limitation on Number of Terms***

SECTION 1. No person shall be elected to the office of the President more than twice, and no person who has held the office of President, or acted as President, for more than two years of a term to which some other person was elected President shall be elected to the office of the President more than once. But this article shall not apply to any person holding the office of President when this article was proposed by the Congress, and shall not prevent any person who may be holding the office of President, or acting as President, during the term within which this article becomes operative from holding the office of President or acting as President during the remainder of such term.

***Condition of Ratification***

SECTION 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the Legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.

Proposed March 24, 1947; ratified February 27, 1951; certified March 1, 1951.  
[16 Fed. Reg. 2019 (1951).]

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**Act for the Admission of California  
Into the Union**

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# Act for the Admission of California Into the Union\*

WHEREAS, The people of California have presented a constitution and asked admission into the Union, which constitution, was submitted to Congress, by the President of the United States by message, dated February thirteenth, eighteen hundred and fifty, and which, on due examination, is found to be republican in its form of government.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the State of California shall be one, and is hereby declared to be one, of the United States of America, and admitted into the Union on an equal footing with the original States in all respects whatever.*

SECTION 2. *And be it further enacted, That until the representatives in Congress shall be apportioned according to an actual enumeration of the inhabitants of the United States, the State of California shall be entitled to two representatives in Congress.*

SECTION 3. *And be it further enacted, That the said State of California is admitted into the Union upon the express condition that the people of said State, through their Legislature or otherwise, shall never interfere with the primary disposal of the public lands within its limits, and shall pass no law and do no act whereby the title of the United States to, and right to dispose of, the same shall be impaired or questioned; and that they shall never lay any tax or assessment of any description whatsoever upon the public domain of the United States, and in no case shall nonresident proprietors, who are citizens of the United States, be taxed higher than residents; and that all the navigable waters within the said State shall be common highways, and forever free, as well to the inhabitants of said State as to the citizens of the United States, without any tax, impost, or duty therefor. Provided, That nothing herein contained shall be construed as recognizing or rejecting the propositions tendered by the people of California as articles of compact in the ordinance adopted by the convention which formed the constitution of that State.†*

\* The text here printed is taken from Volume 9, Statutes at Large, page 452.

† The following provision appears in an act approved September 28, 1850, Volume 9, Statutes at Large, page 521:

"That all laws of the United States which are not locally inapplicable shall have the same force and effect within the said State of California as elsewhere within the United States."



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**Constitution of the State  
of California  
1879**

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# Constitution of the State of California-1879 \*

(Including Amendments Adopted November 6, 1956)

## PREAMBLE

We, the People of the State of California, grateful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

(Constitution of 1849, revised 1879.)

## ARTICLE I

### Declaration of Rights

#### *Inalienable Rights*

SECTION 1. All men are by nature free and independent, and have certain inalienable rights, among which are those of enjoying and defending life and liberty; acquiring, possessing, and protecting property; and pursuing and obtaining safety and happiness.

(Constitution of 1849, Art. I, Sec. 1.)

#### *Purpose of Government*

SEC. 2. All political power is inherent in the people. Government is instituted for the protection, security and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

(Constitution of 1849, Art. I, Sec. 2.)

#### *United States Constitution Supreme Law*

SEC. 3. The State of California is an inseparable part of the American Union, and the Constitution of the United States is the supreme law of the land.

#### *Liberty of Conscience*

SEC. 4. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be guaran-

\* Adopted by the people on May 7, 1879. See Article XXII, Section 12, for effective date.  
Capitalization, use of figures, hyphenization, etc., have been made uniform, according to the State Printer's present style. No italics have been shown for words introducing "provisos" and modern practice has been followed in the spelling of such words as "employee."

The blackface side heads throughout the text have been inserted to assist the reader and are not to be construed as interpreting or qualifying the provisions of this document.

ted in this State; and no person shall be rendered incompetent to be a witness or juror on account of his opinions on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

(Constitution of 1849, Art. I, Sec. 4, revised 1879.)

#### ***Suspension of Habeas Corpus***

SEC. 5. The privilege of the writ of habeas corpus shall not be suspended unless when, in cases of rebellion or invasion, the public safety may require its suspension.

(Constitution of 1849, Art. I, Sec. 5.)

#### ***Bail—Unusual Punishment—Detention of Witnesses***

SEC. 6. All persons shall be bailable by sufficient sureties, unless for capital offenses when the proof is evident or the presumption great. Excessive bail shall not be required, nor excessive fines imposed; nor shall cruel or unusual punishments be inflicted. Witnesses shall not be unreasonably detained, nor confined in any room where criminals are actually imprisoned.

(Constitution of 1849, Art. I, Secs. 6, 7, revised 1879.)

#### ***Trial by Jury***

SEC. 7. The right of trial by jury shall be secured to all, and remain inviolate; but in civil actions three-fourths of the jury may render a verdict. A trial by jury may be waived in all criminal cases, by the consent of both parties, expressed in open court by the defendant and his counsel, and in civil actions by the consent of the parties, signified in such manner as may be prescribed by law. In civil actions and cases of misdemeanor, the jury may consist of 12, or of any number less than 12 upon which the parties may agree in open court.

(Amendment adopted November 6, 1928.)

#### ***Pleading Guilty Before Magistrate—Prosecutions***

SEC. 8. Offenses heretofore required to be prosecuted by indictment shall be prosecuted by information, after examination and commitment by a magistrate, or by indictment, with or without such examination and commitment, as may be prescribed by law. When a defendant is charged with the commission of a felony, by a written complaint subscribed under oath and on file in a court within the county in which the felony is triable, he shall, without unnecessary delay, be taken before a magistrate of such court. The magistrate shall immediately deliver to him a copy of the complaint, inform him of his right to the aid of counsel, ask him if he desires the aid of counsel, and allow him a reasonable time to send for counsel; and the magistrate must, upon the request of the defendant, require a peace officer to take a message to any counsel whom the defendant may name, in the city or township in which the court is situated. If the felony charged is not punishable with

death, the magistrate shall immediately upon the appearance of counsel for the defendant read the complaint to the defendant and ask him whether he pleads guilty or not guilty to the offense charged therein; thereupon, or at any time thereafter while the charge remains pending before the magistrate and when his counsel is present, the defendant may, with the consent of the magistrate and the district attorney or other counsel for the people, plead guilty to the offense charged or to any other offense the commission of which is necessarily included in that with which he is charged, or to an attempt to commit the offense charged; and upon such plea of guilty, the magistrate shall immediately commit the defendant to the sheriff and certify the case, including a copy of all proceedings therein and such testimony as in his discretion he may require to be taken, to the superior court, and thereupon such proceedings shall be had as if such defendant had pleaded guilty in such court.

The foregoing provisions of this section shall be self-executing. The Legislature may prescribe such procedure in cases herein provided for as is not inconsistent herewith. In cases not hereinabove provided for, such proceedings shall be had as are now or may be hereafter prescribed by law, not inconsistent herewith.

#### **Grand Juries**

A grand jury shall be drawn and summoned at least once a year in each county.

(Amendment adopted November 6, 1934. Initiative measure.)

#### **Liberty of Speech and of the Press**

SEC. 9. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions for libels, the truth may be given in evidence to the jury; and if it shall appear to the jury that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact. Indictments found, or information laid, for publications in newspapers shall be tried in the county where such newspapers have their publication office, or in the county where the party alleged to be libeled resided at the time of the alleged publication, unless the place of trial shall be changed for good cause.

(Constitution of 1849, Art. I, Sec. 9, revised 1879.)

#### **Right to Assemble and to Petition**

SEC. 10. The people shall have the right to freely assemble together to consult for the common good, to instruct their representatives, and to petition the Legislature for redress of grievances.

(Constitution of 1849, Art. I, Sec. 10, revised 1879.)

***Uniform General Laws***

SEC. 11. All laws of a general nature shall have a uniform operation.

(Constitution of 1849, Art. I, Sec. 11.)

***Civil Power Supreme—The Military***

SEC. 12. The military shall be subordinate to the civil power. No standing army shall be kept up by this State in time of peace, and no soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, except in the manner prescribed by law.

(Constitution of 1849, Art. I, Secs. 12, 13, revised 1879.)

***Criminal Prosecutions—Rights of Accused—Due Process of Law—Jeopardy—Comment on Failure of Defendant to Testify—Depositions***

SEC. 13. In criminal prosecutions, in any court whatever, the party accused shall have the right to a speedy and public trial; to have the process of the court to compel the attendance of witnesses in his behalf, and to appear and defend, in person and with counsel. No person shall be twice put in jeopardy for the same offense; nor be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property without due process of law; but in any criminal case, whether the defendant testifies or not, his failure to explain or to deny by his testimony any evidence or facts in the case against him may be commented upon by the court and by counsel, and may be considered by the court or the jury. The Legislature shall have power to provide for the taking, in the presence of the party accused and his counsel, of depositions of witnesses in criminal cases, other than cases of homicide when there is reason to believe that the witness, from inability or other cause, will not attend at the trial.

(Amendment adopted November 6, 1934. Initiative measure.)

***Eminent Domain***

SEC. 14. Private property shall not be taken or damaged for public use without just compensation having first been made to, or paid into court for, the owner, and no right of way or lands to be used for reservoir purposes shall be appropriated to the use of any corporation, except a municipal corporation or a county or the State or metropolitan water district, municipal utility district, municipal water district, drainage, irrigation, levee, reclamation or water conservation district, or similar public corporation until full compensation therefor be first made in money or ascertained and paid into court for the owner, irrespective of any benefits from any improvement proposed by such corporation, which compensation shall be ascertained by a jury, unless a jury be waived, as in other civil cases in a court of record, as shall be prescribed by law; provided, that in any proceeding in eminent domain brought by the State, or a county, or a municipal corporation, or metropolitan water district, municipal utility district, municipal water dis-

trict, drainage, irrigation, levee, reclamation or water conservation district, or similar public corporation, the aforesaid State or municipality or county or public corporation or district aforesaid may take immediate possession and use of any right of way or lands to be used for reservoir purposes, required for a public use whether the fee thereof or an easement therefor be sought upon first commencing eminent domain proceedings according to law in a court of competent jurisdiction and thereupon giving such security in the way of money deposited as the court in which such proceedings are pending may direct, and in such amounts as the court may determine to be reasonably adequate to secure to the owner of the property sought to be taken immediate payment of just compensation for such taking and any damage incident thereto, including damages sustained by reason of an adjudication that there is no necessity for taking the property, as soon as the same can be ascertained according to law. The court may, upon motion of any party to said eminent domain proceedings, after such notice to the other parties as the court may prescribe, alter the amount of such security so required in such proceedings. The taking of private property for a railroad run by steam or electric power for logging or lumbering purposes shall be deemed a taking for a public use, and any person, firm, company or corporation taking private property under the law of eminent domain for such purposes shall thereupon and thereby become a common carrier.

(Amendment adopted November 6, 1934.)

#### ***Acquisition of Land for Public Improvements—Excess Condemnation***

SEC. 14½. The State, or any of its cities or counties, may acquire by gift, purchase or condemnation, lands for establishing, laying out, widening, enlarging, extending, and maintaining memorial grounds, streets, squares, parkways and reservations in and about and along and leading to any or all of the same, providing land so acquired shall be limited to parcels lying wholly or in part within a distance not to exceed 150 feet from the closest boundary of such public works or improvements; provided, that when parcels which lie only partially within said limit of 150 feet only such portions may be acquired which do not exceed 200 feet from said closest boundary, and after the establishment, laying out, and completion of such improvements, may convey any such real estate thus acquired and not necessary for such improvements, with reservations concerning the future use and occupation of such real estate so as to protect such public works and improvements and their environs and to preserve the view, appearance, light, air and usefulness of such public works.

The Legislature may, by statute, prescribe procedure.

(New section adopted November 6, 1928.)

#### ***No Imprisonment for Debt***

SEC. 15. No person shall be imprisoned for debt in any civil action, on mesne or final process, unless in cases of fraud, nor in civil actions

for torts, except in cases of wilful injury to person or property; and no person shall be imprisoned for a militia fine in time of peace.

(Constitution of 1849, Art. I, Sec. 15, revised 1879.)

#### ***Bill of Attainder—Ex Post Facto Law—Obligation of Contract***

SEC. 16. No bill of attainder, ex post facto law, or law impairing the obligation of contracts shall ever be passed.

(Constitution of 1849, Art. I, Sec. 16.)

#### ***Rights of Aliens***

SEC. 17. Foreigners, eligible to become citizens of the United States under the naturalization laws thereof, while bona fide residents of this State, shall have the same rights in respect to the acquisition, possession, enjoyment, transmission, and inheritance of all property, other than real estate, as native born citizens; provided, that such aliens owning real estate at the time of the adoption of this amendment may remain such owners; and provided further, that the Legislature may, by statute, provide for the disposition of real estate which shall hereafter be acquired by such aliens by descent or devise.

(Amendment adopted November 2, 1954.)

#### ***Slavery Prohibited***

SEC. 18. Neither slavery nor involuntary servitude, unless for the punishment of crime, shall ever be tolerated in this State.

(Constitution of 1849, Art. I, Sec. 18, revised 1879.)

#### ***Unreasonable Seizure and Search—Warrant***

SEC. 19. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable seizures and searches, shall not be violated; and no warrant shall issue, but on probable cause, supported by oath or affirmation, particularly describing the place to be searched and the persons and things to be seized.

(Constitution of 1849, Art. I, Sec. 19.)

#### ***Treason***

SEC. 20. Treason against the State shall consist only in levying war against it, adhering to its enemies, or giving them aid and comfort. No person shall be convicted of treason unless on the evidence of two witnesses to the same overt act, or confession in open court.

(Constitution of 1849, Art. I, Sec. 20.)

#### ***Privileges and Immunities***

SEC. 21. No special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the Legislature; nor shall any citizen, or class of citizens, be granted privileges or immunities which, upon the same terms, shall not be granted to all citizens.\*

\* See also Article IV, Section 25, paragraph nineteenth, page 93.

***Constitution Mandatory and Prohibitory***

SEC. 22. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

***Rights Reserved***

SEC. 23. This enumeration of rights shall not be construed to impair or deny others retained by the people.

(Constitution of 1849, Art. I, Sec. 21.)

***No Property Qualification for Electors***

SEC. 24. No property qualification shall ever be required for any person to vote or hold office.

***Right to Fish***

SEC. 25. The people shall have the right to fish upon and from the public lands of the State and in the waters thereof, excepting upon lands set aside for fish hatcheries, and no land owned by the State shall ever be sold or transferred without reserving in the people the absolute right to fish thereupon; and no law shall ever be passed making it a crime for the people to enter upon the public lands within this State for the purpose of fishing in any water containing fish that have been planted therein by the State; provided, that the Legislature may by statute, provide for the season when and the conditions under which the different species of fish may be taken.

(New section adopted November 8, 1910.)

SEC. 26. *No Section 26 has been adopted.*

***Suspension of Prohibition***

SEC. 26a. *Section repealed November 8, 1949.*

## ARTICLE II

### **Right of Suffrage**

***Right to Vote—Educational Qualifications—Absent Voting***

SECTION 1. Every native citizen of the United States of America, every person who shall have acquired the rights of citizenship under and by virtue of the Treaty of Queretaro,<sup>†</sup> and every naturalized citizen thereof, who shall have become such 90 days prior to any election, of the age of 21 years, who shall have been a resident of the State one year next preceding the day of the election, and of the county in which he or she claims his or her vote 90 days, and in the election precinct 54 days, shall be entitled to vote at all elections which are now or may hereafter be authorized by law; provided, any person duly registered as an elector in one precinct and removing therefrom to another precinct in the same

<sup>†</sup> See 1 Malloy, Treaties, 1107.

county within 54 days, or any person duly registered as an elector in any county in California and removing therefrom to another county in California within 90 days prior to an election, shall for the purpose of such election be deemed to be a resident and qualified elector of the precinct or county from which he so removed until after such election; provided, further, no alien ineligible to citizenship, no idiot, no insane person, no person convicted of any infamous crime, no person hereafter convicted of the embezzlement or misappropriation of public money, and no person who shall not be able to read the Constitution in the English language and write his or her name, shall ever exercise the privileges of an elector in this State; provided, that the provisions of this amendment relative to an educational qualification shall not apply to any person prevented by a physical disability from complying with its requisitions, nor to any person who had the right to vote on October 10, 1911, nor to any person who was sixty years of age and upwards on October 10, 1911; provided, further, that the Legislature may, by general law, provide for the casting of votes by duly registered voters who expect to be absent from their respective precincts or unable to vote therein, by reason of physical disability, on the day on which any election is held.

(Amendment adopted November 7, 1950.)

#### **Privilege of Electors From Arrest**

SEC. 2. Electors shall in all cases, except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

(Constitution of 1849, Art. II, Sec. 2.)

#### **Conventions—Primary Elections**

SEC. 2½. The Legislature shall have the power to enact laws relative to the election of delegates to conventions of political parties; and the Legislature shall enact laws providing for the direct nomination of candidates for public office, by electors, political parties, or organizations of electors without conventions, at elections to be known and designated as primary elections; also to determine the tests and conditions upon which electors, political parties, or organizations of electors may participate in any such primary election. It shall also be lawful for the Legislature to prescribe that any such primary election shall be mandatory and obligatory. The Legislature shall also have the power to establish the rates of compensation for primary election officers serving at such primary elections in any city, or city and county, or county, or other subdivision of a designated population, without making such compensation uniform, and for such purpose such law may declare the population of any city, city and county, county or political subdivision. Provided, however, that until the Legislature shall enact a Direct Primary Election Law under the provisions of this section, the present Primary Election Law shall remain in force and effect.

(Amendment adopted November 3, 1908.)

***Election at Primary—Nonpartisan Candidates***

SEC. 24. Any candidate for a judicial, school, county, township, or other nonpartisan office who at a primary election shall receive votes on a majority of all the ballots cast for candidates for the office for which such candidate seeks nomination, shall be elected to such office. Where two or more candidates are to be elected to a given office and a greater number of candidates receive a majority than the number to be elected, those candidates shall be elected who secure the highest votes of those receiving such majority, and equal in number to the number to be elected. Where a different method of election is provided by a free-holders' charter, the charter provision shall govern.

(New section adopted November 2, 1926.)

***Militia Duty on Election Day***

SEC. 3. No elector shall be obliged to perform militia duty on the day of election, except in time of war or public danger.

(Constitution of 1849, Art. II, Sec. 3.)

***When Residence Not Gained Nor Lost***

SEC. 4. For the purpose of voting, no person shall be deemed to have gained or lost a residence by reason of his presence or absence while employed in the service of the United States, nor while engaged in the navigation of the waters of this State or of the United States, or of the high seas; nor while a student at any seminary of learning; nor while kept at any almshouse or other asylum, at public expense; nor while confined in any public prison.\*

(Constitution of 1849, Art. II, Sec. 4, revised 1879.)

***Manner of Voting—Secrecy***

SEC. 5. All elections by the people shall be by ballot or by such other method as may be prescribed by law; provided, that secrecy in voting be preserved.

(Amendment adopted November 3, 1896).

***Different Methods of Voting—Voting Machines***

SEC. 6. The inhibitions of this Constitution to the contrary notwithstanding, the Legislature shall have power to provide that in different parts of the State different methods may be employed for receiving and registering the will of the people as expressed at elections, and may provide that mechanical devices may be used within designated subdivisions of the State at the option of the local authority indicated by the Legislature for that purpose.

(New section adopted November 4, 1902.)

\* See also Article XX, Section 12, page 207.

## ARTICLE III

### Distribution of Powers

#### *Three Separate Departments—Separation of Powers*

SECTION 1. The powers of the Government of the State of California shall be divided into three separate departments—the Legislative, Executive, and Judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions appertaining to either of the others, except as in this Constitution expressly directed or permitted.

(Constitution of 1849, Art. III, Sec. 1, revised 1879.)

## ARTICLE IV

### Legislative Department

#### *Legislative Power Vested in Senate and Assembly*

SECTION 1. The legislative power of this State shall be vested in a Senate and Assembly which shall be designated "The Legislature of the State of California," but the people reserve to themselves the power to propose laws and amendments to the Constitution, and to adopt or reject the same, at the polls independent of the Legislature, and also reserve the power, at their own option, to so adopt or reject any act, or section or part of any act, passed by the Legislature.

#### *The Enacting Clause of Every Law*

The enacting clause of every law shall be "The people of the State of California do enact as follows:".

#### *The Initiative—Initiative Measures Placed on Ballot*

The first power reserved to the people shall be known as the initiative. Upon the presentation to the Secretary of State of a petition certified as herein provided to have been signed by qualified electors, equal in number to 8 percent of all the votes cast for all candidates for Governor at the last preceding general election, at which a Governor was elected, proposing a law or amendment to the Constitution, set forth in full in said petition, the Secretary of State shall submit the said proposed law or amendment to the Constitution to the electors at the next succeeding general election occurring subsequent to 130 days after the presentation aforesaid of said petition, or at any special election called by the Governor in his discretion prior to such general election. All such initiative petitions shall have printed across the top thereof in 12-point blackface type the following: "Initiative measure to be submitted directly to the electors."

***Initiative Measures Submitted to Legislature***

Upon the presentation to the Secretary of State, at any time not less than 10 days before the commencement of any regular session of the Legislature, of a petition certified as herein provided to have been signed by qualified electors of the State equal in number to 5 percent of all the votes cast for all candidates for Governor at the last preceding general election, at which a Governor was elected, proposing a law set forth in full in said petition, the Secretary of State shall transmit the same to the Legislature as soon as it convenes and organizes. The law proposed by such petition shall be either enacted or rejected without change or amendment by the Legislature, within 40 days from the time it is received by the Legislature. If any law proposed by such petition shall be enacted by the Legislature it shall be subject to referendum, as hereinafter provided. If any law so petitioned for be rejected, or if no action is taken upon it by the Legislature, within said 40 days, the Secretary of State shall submit it to the people for approval or rejection at the next ensuing general election. The Legislature may reject any measure so proposed by initiative petition and propose a different one on the same subject by a yea and nay vote upon separate roll call, and in such event both measures shall be submitted by the Secretary of State to the electors for approval or rejection at the next ensuing general election or at a prior special election called by the Governor, in his discretion, for such purpose. All said initiative petitions last above described shall have printed in 12-point blackface type the following: "Initiative measure to be presented to the Legislature."

***The Referendum—Effective Date of Statutes—Two-thirds******Vote on Urgency Measures***

The second power reserved to the people shall be known as the referendum. No act passed by the Legislature shall go into effect until 90 days after the final adjournment of the session of the Legislature which passed such act, except acts calling elections, acts providing for tax levies or appropriations for the usual current expenses of the State, and urgency measures necessary for the immediate preservation of the public peace, health or safety, passed by a two-thirds vote of all the members elected to each house.

***Urgency Measures—Effective Date***

Whenever it is deemed necessary for the immediate preservation of the public peace, health or safety that a law shall go into immediate effect, a statement of the facts constituting such necessity shall be set forth in one section of the act, which section shall be passed only upon a yea and nay vote, upon a separate roll call thereon; provided, however, that no measure creating or abolishing any office or changing the salary, term or duties of any officer, or granting any franchise or special privilege, or creating any vested right or interest, shall be construed to be an urgency measure. Any law so passed by the Legislature and declared to be an urgency measure shall go into immediate effect.

***Referendum Measures to Be Placed on Ballot***

Upon the presentation to the Secretary of State within 90 days after the final adjournment of the Legislature of a petition certified as herein provided, to have been signed by qualified electors equal in number to 5 percent of all the votes cast for all candidates for Governor at the last preceding general election at which a Governor was elected, asking that any act or section or part of any act of the Legislature be submitted to the electors for their approval or rejection, the Secretary of State shall submit to the electors for their approval or rejection, such act, or section or part of such act, at the next succeeding general election occurring at any time subsequent to 30 days after the filing of said petition or at any special election which may be called by the Governor, in his discretion, prior to such regular election, and no such act or section or part of such act shall go into effect until and unless approved by a majority of the qualified electors voting thereon; but if a referendum petition is filed against any section or part of any act the remainder of such act shall not be delayed from going into effect.

***Effective Date of Initiative and Referendum Measures***

Any act, law or amendment to the Constitution submitted to the people by either initiative or referendum petition and approved by a majority of the votes cast thereon, at any election, shall take effect five days after the date of the official declaration of the vote by the Secretary of State.

***Amendment of Initiative and Referendum Measures***

No act, law or amendment to the Constitution, initiated or adopted by the people, shall be subject to the veto power of the Governor, and no act, law or amendment to the Constitution, adopted by the people at the polls under the initiative provisions of this section, shall be amended or repealed except by a vote of the electors, unless otherwise provided in said initiative measure; but acts and laws adopted by the people under the referendum provisions of this section may be amended by the Legislature at any subsequent session thereof.\*

***Conflicting Measures***

If any provision or provisions of two or more measures, approved by the electors at the same election, conflict, the provision or provisions of the measure receiving the highest affirmative vote shall prevail.

***Measures and Arguments to Be Submitted to Voters***

Until otherwise provided by law, all measures submitted to a vote of the electors, under the provisions of this section, shall be printed, and together with arguments for and against each such measure by those in favor of, and those opposed to, it shall be mailed to each elector in the same manner as now provided by law as to amendments to the

\* See also Article IV, Section 1b, page 82.

Constitution, proposed by the Legislature; and the persons to prepare and present such arguments shall, until otherwise provided by law, be selected by the presiding officer of the Senate.

#### ***Submission of Measures on Ballot***

If for any reason any initiative or referendum measure, proposed by petition as herein provided, be not submitted at the election specified in this section, such failure shall not prevent its submission at a succeeding general election, and no law or amendment to the Constitution, proposed by the Legislature, shall be submitted at any election unless at the same election there shall be submitted all measures proposed by petition of the electors, if any be so proposed, as herein provided.

#### ***Initiative, Referendum Petition—Preparation of Title***

Prior to circulation of any initiative or referendum petition for signatures thereof, a draft of the said petition shall be submitted to the Attorney General with a written request that he prepare a title, and summary of the chief purpose and points of said proposed measure, said title and summary not to exceed 100 words in all. The persons presenting such request to the Attorney General shall be known as "proponents" of said proposed measure. The Attorney General shall preserve said written request until after the next general election.

#### ***Form and Presentation of Petitions***

Any initiative or referendum petition may be presented in sections, but each section shall contain a full and correct copy of the title and text of the proposed measure. Each signer shall add to his signature his place of residence, giving the street and number if such exist. His election precinct shall also appear on the paper after his name. The number of signatures attached to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit said signatures within the county or city and county of which he is an elector. Each section of the petition shall bear the name of the county or city and county in which it is circulated, and only qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same, stating his own qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be, and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer oaths. Such petitions so verified shall be *prima facie* evidence that the signatures thereon are genuine and that the persons signing the same are qualified electors. Unless and

until it be otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of qualified electors.

#### ***Filing Petitions With County Clerks or Registrars of Voters***

Each section of the petition shall be filed with the clerk or registrar of voters of the county or city and county in which it was circulated, but all said sections circulated in any county or city and county shall be filed at the same time. Within 20 days after the filing of such petition in his office the said clerk, or registrar of voters, shall determine from the records of registration what number of qualified electors have signed the same, and if necessary the board of supervisors shall allow said clerk or registrar additional assistance for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to said petition, except the signatures thereto appended, his certificate, properly dated, showing the result of said examination and shall forthwith transmit said petition, together with his said certificate, to the Secretary of State and also file a copy of said certificate in his office. Within 40 days from the transmission of the said petition and certificate by the clerk or registrar to the Secretary of State, a supplemental petition identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid.

#### ***Right to File Reserved to Proponents***

The right to file the original petition shall be reserved to its proponents, as defined herein and any section thereof or supplement thereto presented for filing by any person or persons other than the proponents of a measure or by persons duly authorized in writing by such proponents shall be disregarded by the county clerk or registrar of voters.

#### ***Supplemental Petitions***

The clerk or registrar of voters shall within 10 days after the filing of such supplemental petition make like examination thereof, as of the original petition, and upon the completion of such examination shall forthwith attach to said petition his certificate, properly dated, showing the result of said examination, and shall forthwith transmit a copy of said supplemental petition, except the signatures thereto appended, together with his certificate, to the Secretary of State.

#### ***Filing of Certified Petitions With Secretary of State—Qualification of Initiative or Referendum***

When the Secretary of State shall have received from one or more county clerks or registrars of voters a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of

every county or city and county in the State his certificate showing such fact. A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by him of a certificate or certificates showing said petition to be signed by the requisite number of electors of the State. Any county clerk or registrar of voters shall, upon receipt of such copy, file the same for record in his office. The duties herein imposed upon the clerk or registrar of voters shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

#### *Initiative and Referendum Powers Reserved to Cities and Counties*

The initiative and referendum powers of the people are hereby further reserved to the electors of each county, city and county, city and town of the State to be exercised under such procedure as may be provided by law. Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising the initiative and referendum powers herein reserved to such counties, cities and counties, cities and towns, but shall not require more than 15 percent of the electors thereof to propose any initiative measure nor more than 10 percent of the electors thereof to order the referendum. Nothing contained in this section shall be construed as affecting or limiting the present or future powers of cities or cities and counties having charters adopted under the provisions of Section 8 of Article XI of this Constitution. In the submission to the electors of any measure under this section, all officers shall be guided by the general laws of this State, except as is herein otherwise provided. This section is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting either the provisions of this section or the powers herein reserved.

(Amendment adopted November 8, 1938.)

#### *Effective Dates of Statutes of 1933*

SEC. 1a. *Section repealed November 8, 1949.*

NOTE—There were two sections of this number. The other section relating to budget and claims remains in effect.

#### *Budget and Claims*

(Another section of the same number was added in 1933 and repealed in 1949. See above.)

SEC. 1a. Notwithstanding any limitations or restrictions in this Constitution contained, every state office, department, institution, board, commission, bureau, or other agency of the State, whether created by initiative law or otherwise, shall be subject to the regulations and requirements with respect to the filing of claims with the State Controller and the submission, approval and enforcement of budgets prescribed by law.

(New section adopted November 6, 1934.)

***Amendment or Repeal of Initiative Measures \****

SEC. 1b. Laws may be enacted by the Legislature to amend or repeal any act adopted by vote of the people under the initiative, to become effective only when submitted to and approved by the electors unless the initiative act affected permits the amendment or the repeal without such approval. The Legislature shall by law prescribe the method and manner of submitting such a proposal to the electors.

(New section adopted November 5, 1946.)

***Initiative Measures May Relate to But One Subject***

SEC. 1c. Every constitutional amendment or statute proposed by the initiative shall relate to but one subject. No such amendment or statute shall hereafter be submitted to the electors if it embraces more than one subject, nor shall any such amendment or statute embracing more than one subject, hereafter submitted to or approved by the electors, become effective for any purpose.

(New section adopted November 2, 1948.)

***Naming of Individuals to Office by Constitutional Amendments and Laws Prohibited***

SEC. 1d. No amendment to the Constitution and no law or amendment thereto whether proposed by the initiative or by the Legislature which names any individual or individuals by name or names to hold any office or offices shall hereafter be submitted to the electors, nor shall any such amendment to the Constitution, law, or amendment thereto hereafter submitted to or approved by the electors become effective for any purpose.

(New section adopted November 7, 1950.)

***Time and Duration of Sessions of Legislature—Annual Sessions***

SEC. 2. (a) The sessions of the Legislature shall be annual, but the Governor may, at any time, convene the Legislature, by proclamation, in extraordinary session.

All regular sessions in odd-numbered years shall be known as general sessions and no general session shall exceed 120 calendar days, exclusive of the recess required to be taken in pursuance of this section, in duration.

All regular sessions in even-numbered years shall be known as budget sessions, at which the Legislature shall consider only the Budget Bill for the succeeding fiscal year, revenue acts necessary therefor, the approval or rejection of charters and charter amendments of cities, counties, and cities and counties, and acts necessary to provide for the expenses of the session.

\* See also Article IV, Section 1, page 78.

**General Sessions**

All general sessions shall commence at 12 o'clock m., on the first Monday after the first day of January, and shall continue for a period not exceeding 30 calendar days thereafter; whereupon a recess of both houses must be taken for not less than 30 calendar days. On the reassembling of the Legislature, no bill shall be introduced in either house without the consent of three-fourths of the members thereof, nor shall more than two bills be introduced by any one member after such reassembling.

**Budget Sessions**

(See subdivision (c) below.)

All budget sessions shall commence at 12 m. on the first Monday in March and no budget session shall exceed 30 calendar days in duration.

**Salary of Legislators**

(b) Each Member of the Legislature shall receive for his services the sum of five hundred dollars (\$500) for each month of the term for which he is elected.

**Per Diem Expenses—Service on Investigating Committees \***

No Member of the Legislature shall be reimbursed for his expenses, except for expenses incurred (1) while attending a regular, special or extraordinary session of the Legislature (the expense allowances for which may equal but not exceed the expense allowances at the time authorized for other elected state officers), not exceeding 120 calendar days of any general session or 30 calendar days of any budget session or the duration of a special or extraordinary session or (2) while serving after the Legislature has adjourned or during any recess of the two houses of the Legislature as a member of a joint committee of the two houses or of a committee of either house, when the committee is constituted and acting as an investigating committee to ascertain facts and make recommendations, not exceeding, during any calendar year, 40 days as a member of one or more committees of either house, or 60 days as a member of one or more joint committees, but not exceeding 60 days in the aggregate for all such committee work. The limitations in this subsection (b) are not applicable to mileage allowances.

(Amendment adopted November 2, 1954.)

**Budget Sessions—Expenses of Committee Members Considering Budget Bill**

(c) Notwithstanding any provisions in subdivision (a) of this section of this article to the contrary, all budget sessions shall commence at 12 m. on the first Monday in February and no budget session shall exceed 30 calendar days in duration exclusive of the recess authorized to be taken by this subdivision. After the introduction of the Budget Bill at a budget session a recess of both houses may be taken for a period not to exceed 30 calendar days. Members of the committees to which the Budget Bill is assigned for consideration during such recess

\* See also Article IV, Section 23b, page 91.

shall be reimbursed for their expenses incurred for days while serving as members of such committees during the recess, in addition to the days allowed by subdivision (b) of this section.

(Amendment adopted November 6, 1956.)

#### ***Election and Terms of Members of Assembly***

SEC. 3. Members of the Assembly shall be elected in the year 1879, at the time and in the manner now provided by law. The second election of Members of the Assembly after the adoption of this Constitution shall be on the first Tuesday after the first Monday in November, 1880. Thereafter, Members of the Assembly shall be chosen biennially, and their term of office shall be two years; and each election shall be on the first Tuesday after the first Monday in November, unless otherwise ordered by the Legislature.

(Constitution of 1849, Art. IV, Sec. 3, revised 1879.)

#### ***Election and Terms of Senators—Qualifications of Members of Legislature***

SEC. 4. Senators shall be chosen for the term of four years, at the same time and places as Members of the Assembly, and no person shall be a Member of the Senate or Assembly who has not been a citizen and inhabitant of the State three years, and of the district for which he shall be chosen one year, next before his election.

(Constitution of 1849, Art. IV, Secs. 4, 5, revised 1879.)

#### ***Number of Senators and Assemblymen***

SEC. 5. The Senate shall consist of 40 members, and the Assembly of 80 members, to be elected by districts, numbered as hereinafter provided. The seats of the 20 Senators elected in the year 1882 from the odd numbered districts shall be vacated at the expiration of the second year, so that one-half of the Senators shall be elected every two years; provided, that all the Senators elected at the first election under this Constitution shall hold office for the term of three years.

(Constitution of 1849, Art. IV, Sec. 6, revised 1879.)

#### ***Senatorial and Assembly Districts***

SEC. 6. For the purpose of choosing Members of the Legislature, the State shall be divided into 40 senatorial and 80 assembly districts to be called senatorial and assembly districts. Such districts shall be composed of contiguous territory, and assembly districts shall be as nearly equal in population as may be. Each senatorial district shall choose one Senator and each assembly district shall choose one Member of Assembly. The senatorial districts shall be numbered from 1 to 40, inclusive, in numerical order, and the assembly districts shall be numbered from 1 to 80 in the same order, commencing at the northern boundary of the State and ending at the southern boundary thereof. In the formation of assembly districts no county, or city and county, shall be divided, unless it contains sufficient population within itself to form two or more districts, and in the formation of senatorial districts

no county, or city and county, shall be divided, nor shall a part of any county, or of any city and county, be united with any other county, or city and county, in forming any assembly or senatorial district. The census taken under the direction of the Congress of the United States in the year 1920, and every 10 years thereafter, shall be the basis of fixing and adjusting the legislative districts; and the Legislature shall, at its first regular session following the adoption of this section and thereafter at the first regular session following each decennial federal census, adjust such districts, and reapportion the representation so as to preserve the assembly districts as nearly equal in population as may be; but in the formation of senatorial districts no county or city and county shall contain more than one senatorial district, and the counties of small population shall be grouped in districts of not to exceed three counties in any one senatorial district; provided, however, that should the Legislature at the first regular session following the adoption of this section or at the first regular session following any decennial federal census fail to reapportion the assembly and senatorial districts, a Reapportionment Commission, which is hereby created, consisting of the Lieutenant Governor, who shall be chairman, and the Attorney General, State Controller, Secretary of State and State Superintendent of Public Instruction, shall forthwith apportion such districts in accordance with the provisions of this section and such apportionment of said districts shall be immediately effective the same as if the act of said Reapportionment Commission were an act of the Legislature, subject, however, to the same provisions of referendum as apply to the acts of the Legislature.

#### ***Population***

Each subsequent reapportionment shall carry out these provisions and shall be based upon the last preceding federal census. But in making such adjustments no persons who are not eligible to become citizens of the United States, under the naturalization laws, shall be counted as forming a part of the population of any district. Until such districting as herein provided for shall be made, Senators and Assemblymen shall be elected by the districts according to the apportionment now provided for by law.

(Amendment adopted November 3, 1942.)

#### ***Choice of Officers—Qualifications of Members***

SEC. 7. Each house shall choose its officers, and judge of the qualifications, elections, and returns of its members.

(Constitution of 1849, Art. IV, Sec. 8, revised 1879.)

#### ***Quorum—Compelling Attendance***

SEC. 8. A majority of each house shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members in such manner, and under such penalties, as each house may provide.

(Constitution of 1849, Art. IV, Sec. 8.)

***Each House Determines Procedure—Expulsion of Member***

SEC. 9. Each house shall determine the rule of its proceeding, and may, with the concurrence of two-thirds of all the members elected, expel a member.

(Constitution of 1849, Art. IV, Sec. 10, revised 1879.)

***Journals***

SEC. 10. Each house shall keep a Journal of its proceedings, and publish the same, and the yeas and nays of the members of either house, on any question, shall, at the desire of any three members present, be entered on the Journal.

(Constitution of 1849, Art. IV, Sec. 11, revised 1879.)

***Privilege of Members From Arrest and Civil Process***

SEC. 11. Members of the Legislature shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest, and shall not be subject to any civil process during the session of the Legislature, nor for 15 days next before the commencement and after the termination of each session.

(Constitution of 1849, Art. IV, Sec. 12.)

***Filling Vacancies***

SEC. 12. When vacancies occur in either house, the Governor, or the person exercising the functions of the Governor, shall issue writs of election to fill such vacancies.

(Constitution of 1849, Art. IV.)

***Open Sessions***

SEC. 13. The doors of each house shall be open, except on such occasions as, in the opinion of the house, may require secrecy.

(Constitution of 1849, Art. IV.)

***Adjournment for More Than Three Days***

SEC. 14. Neither house shall, without the consent of the other, adjourn for more than three days, nor to any place other than that in which they may be sitting.

(Amendment adopted November 6, 1956.)

***Readings and Passage of Bills***

SEC. 15. No law shall be passed except by bill. Nor shall any bill be put upon its final passage until the same, with the amendments thereto, shall have been printed for the use of the members; nor shall any bill become a law unless the same be read on three several days in each house, unless, in case of urgency, two-thirds of the house where such bill may be pending shall, by a vote of yeas and nays, dispense with this provision. Any bill may originate in either house, but may be amended or rejected by the other; and on the final passage of all bills they shall be read at length, and the vote shall be by yeas and nays upon

each bill separately, and shall be entered on the Journal; and no bill shall become a law without the concurrence of a majority of the members elected to each house.

(Constitution of 1849, Art. IV, Sec. 16, revised 1879.)

**Bills to Be Presented to Governor—Veto—Procedure**

SEC. 16. Every bill which may have passed the Legislature shall, before it becomes a law, be presented to the Governor. If he approve it, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated, which shall enter such objections upon the Journal and proceed to reconsider it. If after such reconsideration, it again pass both houses, by yeas and nays, two-thirds of the members elected to each house voting therefor, it shall become a law, notwithstanding the Governor's objections. If any bill shall not be returned within 10 days after it shall have been presented to him (Sundays excepted), the same shall become a law in like manner as if he had signed it, unless the Legislature, by adjournment, prevents such return, in which case it shall not become a law, unless the Governor, within 30 days after such adjournment (Sundays excepted), shall sign and deposit the same in the Office of the Secretary of State, in which case it shall become a law in like manner as if it had been signed by him before adjournment. If any bill presented to the Governor contains several items of appropriation of money, he may object to one or more items, while approving other portions of the bill.\* In such case he shall append to the bill at the time of signing it, a statement of the items to which he objects, and the reasons therefor, and the appropriation so objected to shall not take effect unless passed over the Governor's veto, as herein-before provided. If the Legislature be in session, the Governor shall transmit to the house in which the bill originated a copy of such statement, and the items so objected to shall be separately reconsidered in the same manner as bills which have been disapproved by the Governor.

(Amendment adopted November 3, 1908.)

**Impeachment**

SEC. 17. The Assembly shall have the sole power of impeachment, and all impeachments shall be tried by the Senate. When sitting for that purpose, the Senators shall be upon oath or affirmation, and no person shall be convicted without the concurrence of two-thirds of the members elected.

(Constitution of 1849, Art. IV, Sec. 18, revised 1879.)

**Who May Be Impeached—Removal of Other Officers**

SEC. 18. The Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Surveyor General, Chief Justice and Associate Justices of the Supreme Court, judges of the district court of appeal, and judges of the superior courts, shall be liable to impeachment for any misdemeanor in office; but judgment in such cases shall extend only to removal from office, and disqualification to hold any

\* See also Article IV, Section 34, page 101.

office of honor, trust, or profit under the State; but the party convicted or acquitted shall nevertheless be liable to indictment, trial, and punishment according to law. All other civil officers shall be tried for misdemeanor in office in such manner as the Legislature may provide.

(Amendment adopted October 10, 1911.)

#### ***Senators and Assemblymen Ineligible to Certain Offices***

SEC. 19. No Senator or Member of Assembly shall, during the term for which he shall have been elected, hold or accept any office, trust, or employment under this State; provided, that this provision shall not apply to any office filled by election by the people.

(Amendment adopted November 7, 1916. Initiative measure.)

#### ***Federal Officers Ineligible to State Office—Exceptions—Military Service by Public Officers***

SEC. 20. No person holding any lucrative office under the United States, or any other power, shall be eligible to any civil office of profit under this State; provided, that local officers or postmasters whose compensation does not exceed five hundred dollars (\$500) per annum, or officers in the militia or members of any reserve component of the armed forces of the United States except where on active federal duty for more than 30 days in any year, shall not be deemed to hold lucrative offices; provided further, that the holding of any civil office of profit under this State shall not be affected or suspended by such military service as above described.

(Amendment adopted November 4, 1952.)

#### ***Embezzler of Public Funds Ineligible to Office***

SEC. 21. No person convicted of the embezzlement or defalcation of the public funds of the United States, or of any state, or of any county or municipality therein, shall ever be eligible to any office of honor, trust, or profit under this State, and the Legislature shall provide, by law, for the punishment of embezzlement or defalcation as a felony.

(Constitution of 1849, Art. IV, Sec. 22, revised 1879.)

#### ***Appropriations—Public Money to Be Drawn Only After Appropriation by Law and on Controller's Warrant—State Funds for Hospital Construction—No State Aid for Private Institutions—State Aid for Aged Persons, Needy Blind, Orphans, Abandoned Children, Etc.***

(Two propositions to amend Section 22 were adopted November 4, 1952. See page 90. The following section was Senate Constitutional Amendment No. 28, 1951 Session.)

SEC. 22. No money shall be drawn from the Treasury but in consequence of appropriation made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made

thereto by the State; provided, that notwithstanding anything contained in this or any other section of the Constitution, the Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; provided, further, that the Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, and no person concerned with the administration of aid to needy blind persons shall dictate how any applicant or recipient shall expend such aid granted him, and all money paid to a recipient of such aid shall be intended to help him meet his individual needs and is not for the benefit of any other person, and such aid when granted shall not be construed as income to any person other than the blind recipient of such aid, and the State Department of Social Welfare shall take all necessary action to enforce the provisions relating to aid to needy blind persons as heretofore stated; provided further, that the Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; provided further, that the State shall have at any time the right to inquire into the management of such institutions; provided further, that whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control. An accurate statement of the receipts and expenditures of public moneys shall be attached to and published with the laws at every regular session of the Legislature.

(Amendment adopted November 4, 1952. Ayes—2,497,842; noes—1,907,603.)

(Two propositions to amend Section 22 were adopted November 4, 1952. See preceding section. The following section was Assembly Constitutional Amendment No. 58, 1951 Session.)

SEC. 22. No money shall be drawn from the Treasury but in consequence of appropriation made by law, and upon warrants duly drawn thereon by the Controller; and no money shall ever be appropriated or drawn from the State Treasury for the purpose or benefit of any corporation, association, asylum, hospital, or any other institution not under the exclusive management and control of the State as a state institution, nor shall any grant or donation of property ever be made thereto by the State; provided, that whenever federal funds are made available for the construction of hospital facilities by public agencies and nonprofit corporations organized to construct and maintain such facilities, nothing in this Constitution shall prevent the Legislature from making state money available for that purpose, or from authorizing the use of such money for the construction of hospital facilities by nonprofit corporations organized to construct and maintain such facilities; provided, further, that notwithstanding anything contained in this or any other section of the Constitution, the Legislature shall have the power to grant aid to the institutions conducted for the support and maintenance of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances—such aid to be granted by a uniform rule, and proportioned to the number of inmates of such respective institutions; provided, further, that the Legislature shall have the power to grant aid to needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions; provided, further, that the Legislature shall have power to grant aid to needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; provided, further, that the State shall have at any time the right to inquire into the management of such institutions; provided, further, that whenever any county, or city and county, or city, or town, shall provide for the support of minor orphans, or half-orphans, or abandoned children, or children of a father who is incapacitated for gainful work by permanent physical disability or is suffering from tuberculosis in such a stage that he cannot pursue a gainful occupation, or aged persons in indigent circumstances, or needy blind persons not inmates of any institution supported in whole or in part by the State or by any of its political subdivisions, or needy physically handicapped persons not inmates of any institution under the supervision of the Department of Mental Hygiene and supported in whole or in part by the State or by any institution supported in whole or part by any political subdivision of the State; such county, city and county, city, or town shall be entitled to receive the same pro rata appropriations as may be granted to such institutions under church, or other control. An accurate statement of the receipts and expenditures of public moneys

shall be attached to and published with the laws at every regular session of the Legislature.

(Amendment adopted November 4, 1952. Ayes—2,026,496; noes—1,957,579.)

**Public Money to Be Drawn Only on Warrant—No State Aid for Private Institutions—State Aid for Orphans, Abandoned Children, Etc., and Physically Handicapped Persons**

(This section was Assembly Constitutional Amendment No. 31, of 1927. Another section of the same number was adopted in 1928 and twice amended in 1952. See pages 88-91.)

SEC. 22. *Section repealed November 8, 1949.*

**Legislature May Provide State Retirement System**

SEC. 22a. The Legislature shall have power to provide for the payment of retirement salaries to employees of the State who shall qualify therefor by service in the work of the State as provided by law. The Legislature shall have power to fix and from time to time change the requirements and conditions for retirement which shall include a minimum period of service, a minimum attained age and minimum contribution of funds by such employees and such other conditions as the Legislature may prescribe, subject to the power of the Legislature to prescribe lesser requirements for retirement because of disability.

The rates of contribution and the periods and conditions of service and amount of retirement salaries fixed in pursuance of this section shall not be changed except by the vote of two-thirds of the members elected to each of the two houses of the Legislature.

(New section adopted November 4, 1930.)

**Compensation of Members of Legislature \*—Manner of Payment—Mileage**

SEC. 23. The Members of the Legislature shall receive for their services the sum of \$100 each for each month of the term for which they are elected, to be paid monthly in the even numbered years and to be paid during the regular legislative session in the odd numbered years at such times as may be provided by law and mileage to be fixed by law, all paid out of the State Treasury, such mileage not to exceed 5 cents per mile.

(Amendment adopted November 4, 1924.)

**Legislative Employees**

SEC. 23a. The Legislature shall provide for the selection of all officers, employees and attaches of both houses.

(Amendment adopted November 6, 1956.)

**Payment of Expenses of Members of the Legislature \***

SEC. 23b. Members of the Legislature shall receive no compensation for their services other than that fixed by the Constitution but each member shall be allowed and reimbursed expenses necessarily incurred by him while attending regular, special and extraordinary sessions of

\* See also Article IV, Section 2(b), page 83.

the Legislature. The amount of the expense necessarily incurred by the respective members, while attending any such sessions, shall be determined and payment thereof provided for by Joint Rules of the Senate and Assembly. Such expense allowances may equal but shall not exceed the expense allowances now authorized for other elected state officers.

(New section adopted November 7, 1944.)

***Act to Deal With One Subject Only—Title—Amendment—English Language***

SEC. 24. Every act shall embrace but one subject, which subject shall be expressed in its title. But if any subject shall be embraced in an act which shall not be expressed in its title, such act shall be void only as to so much thereof as shall not be expressed in its title. No law shall be revised or amended by reference to its title; but in such case the act revised or section amended shall be re-enacted and published at length as revised or amended; and all laws of the State of California, and all official writings, and the executive, legislative, and judicial proceedings shall be conducted, preserved, and published in no other than the English language.

(Constitution of 1849, Art. IV, Sec. 25, Art. XI, Sec. 21, revised 1879.)

***Local or Special Laws Prohibited, When \****

SEC. 25. The Legislature shall not pass local or special laws in any of the following enumerated cases, that is to say:

First—Regulating the jurisdiction and duties of justices of the peace, police judges, and of constables.

Second—For the punishment of crimes and misdemeanors.

Third—Regulating the practice of courts of justice.

Fourth—Providing for changing the venue in civil or criminal actions.

Fifth—Granting divorces.

Sixth—Changing the names of persons or places.

Seventh—Authorizing the laying out, opening, altering, maintaining, or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, graveyards, or public grounds not owned by the State.

Eighth—Summoning and impaneling grand and petit juries, and providing for their compensation.

Ninth—Regulating county and township business, or the election of county and township officers.

Tenth—For the assessment or collection of taxes.

Eleventh—Providing for conducting elections, or designating the places of voting, except on the organization of new counties.

Twelfth—Affecting estates of deceased persons, minors, or other persons under legal disabilities.

Thirteenth—Extending the time for the collection of taxes.

Fourteenth—Giving effect to invalid deeds, wills, or other instruments.

Fifteenth—Refunding money paid into the State Treasury.

\* See also Article I, Section 21, page 72.

Sixteenth—Releasing or extinguishing, in whole or in part, the indebtedness, liability, or obligation of any corporation or person to this State, or to any municipal corporation therein.

Seventeenth—Declaring any person of age, or authorizing any minor to sell, lease, or encumber his or her property.

Eighteenth—Legalizing, except as against the State, the unauthorized or invalid act of any officer.

Nineteenth—Granting to any corporation, association, or individual any special or exclusive right, privilege, or immunity.\*

Twentieth—Exempting property from taxation.

Twenty-first—Changing county seats.

Twenty-second—Restoring to citizenship persons convicted of infamous crimes.

Twenty-third—Regulating the rate of interest on money.

Twenty-fourth—Authorizing the creation, extension, or impairing of liens.

Twenty-fifth—Chartering or licensing ferries, bridges, or roads.

Twenty-sixth—Remitting fines, penalties, or forfeitures.

Twenty-seventh—Providing for the management of common schools.

Twenty-eighth—Creating offices, or prescribing the powers and duties of officers in counties, cities, cities and counties, townships, election or school districts.

Twenty-ninth—Affecting the fees or salary of any officer.

Thirtieth—Changing the law of descent or succession.

Thirty-first—Authorizing the adoption or legitimation of children.

Thirty-second—For limitation of civil or criminal actions.

Thirty-third—In all other cases where a general law can be made applicable.

#### ***Horse Racing and Betting***

SEC. 25a. The Legislature may provide for the regulation of horse races and horse race meetings and wagering on the results thereof. The provisions of an act entitled "An act to provide for the regulation and licensing of horse racing, horse race meetings, and the wagering on the results thereof; to create the California Horse Racing Board for the regulation, licensing and supervision of said horse racing and wagering thereon; to provide penalties for the violation of the provisions of this act, and to provide that this act shall take effect upon the adoption of a constitutional amendment ratifying its provisions," are hereby confirmed, ratified, and declared to be fully and completely effective; provided, that said act may at any time be amended or repealed by the Legislature.

(New section adopted June 27, 1933).

#### ***Fish and Game—Districts and Commission***

SEC. 25½. The Legislature may provide for the division of the State into fish and game districts and may enact such laws for the protection

\* See also Article I, Section 21, page 72.

of fish and game in such districts or parts thereof as it may deem appropriate.

There shall be a Fish and Game Commission of five members appointed by the Governor, subject to confirmation by the Senate, with a term of office of six years and until their respective successors are appointed and qualified, except that the terms of the members first appointed shall expire as follows: one member, January 15, 1943; one member, January 15, 1944; one member, January 15, 1945; one member, January 15, 1946; and one member, January 15, 1947. Each subsequent appointment shall be for six years, or, in case of a vacancy, then for the unexpired portion of such term. The Legislature may delegate to the commission such powers relating to the protection, propagation and preservation of fish and game as the Legislature sees fit. Any member of the commission may be removed by concurrent resolution of the Legislature passed by the vote of a majority of the members elected to each of the two houses thereof.

(Amendment adopted November 2, 1948.)

#### *Disposition of Fish and Game Revenues*

SEC. 25<sup>§</sup>. All money collected under the provision of any law of this State relating to the protection, conservation, propagation, or preservation of fish, game, mollusks, or crustaceans and all fines and forfeitures imposed by any court for the violation of any such law shall be used and expended exclusively for the protection, conservation, propagation, and preservation of fish, game, mollusks, or crustaceans and for the administration and enforcement of laws relating thereto. The Legislature may provide for the division of money derived from such fines and forfeitures.

(New section adopted November 3, 1942.)

#### *Regulation of Wrestling and Boxing Matches*

SEC. 25<sup>§</sup>. The Legislature may provide for the supervision, regulation and conduct, in such manner as it may determine, of wrestling matches or exhibitions and of boxing and sparring matches or exhibitions; provided, that no boxing or sparring match or exhibition shall be of more than 12 rounds in length, such rounds to be of not more than three minutes for each round, except that championship matches may, if the approval of the State Athletic Commission is first obtained, be 15 rounds in length, such rounds to be of not more than three minutes duration each. All moneys, except such sum as the Legislature shall appropriate annually to defray the expenses of the State Athletic Commission of California and to pay the salaries of officers and employees as provided by law, received by the State from license fees, taxes or other means, on or in relation to boxing, sparring and wrestling matches or exhibitions, shall be and are hereby appropriated for the purpose of maintaining such homes for the care of veterans of any war of the United States as may be existing at the time this amendment becomes

effective, or that may be established by the laws of this State. Such moneys shall be appropriated as the Legislature of the State of California may direct.

The Legislature in the exercise of the power granted herein may amend, revise, or supplement any part of that certain initiative act approved by the electors November 4, 1924, entitled "An act to authorize boxing and wrestling contests for prizes or purses, or where an admission fee is charged, and limiting such boxing contests to 12 rounds; to create an Athletic Commission empowered to license such contests and the participants therein; to prescribe conditions under which licenses shall be issued and contests held; to declare that amateur boxing contests conducted under Section 412 of the Penal Code shall be subject to the provisions of this measure and under the sole jurisdiction of such commission in all cases wherein an admission fee is charged spectators to witness such amateur boxing contests."

The Legislature shall, however, have no power to take away the effect of the provisions of the initiative act hereinabove cited which allow wrestling and 12-round boxing contests in the State of California. The repeal either in fact or effect of the sections of the above cited act shall rest entirely in the hands of the people of the State of California as heretofore.

No tax shall be levied or collected in respect to any admissions to a boxing contest or wrestling match or exhibition wherein all the proceeds or net earnings of which inure exclusively to the benefit of any post of the American Legion or any other duly recognized organization of veterans of any war of the United States and not to the benefit of any individual member thereof.

(Amendment adopted November 8, 1942.)

#### *Lotteries and Bucketing Prohibited*

SEC. 26. The Legislature shall have no power to authorize lotteries or gift enterprises for any purpose and shall pass laws to prohibit the sale in this State of lottery or gift enterprise tickets or tickets in any scheme in the nature of a lottery. The Legislature shall pass laws to prohibit the fictitious buying and selling of the shares of the capital stock of corporations in any stock board, stock exchange or stock market under the control of any corporation or association. All contracts for the purchase or sale of shares of the capital stock of any corporation or association without any intention on the part of one party to deliver and of the other party to receive the shares, and contemplating merely the payment of differences between the contract and market prices on divers days, shall be void, and neither party to any such contract shall be entitled to recover any damages for failure to perform the same, or any money paid thereon, in any court of this State.

(Amendment adopted November 8, 1908.)

***Formation of Congressional Districts***

SEC. 27. When a congressional district shall be composed of two or more counties, it shall not be separated by any county belonging to another district. No county, or city and county, shall be divided in forming a congressional district so as to attach one portion of a county, or city and county, to another county, or city and county, except in cases where one county, or city and county, has more population than the ratio required for one or more Congressmen; but the Legislature may divide any county, or city and county, into as many congressional districts as it may be entitled to by law. Any county, or city and county, containing a population greater than the number required for one congressional district shall be formed into one or more congressional districts, according to the population thereof, and any residue, after forming such district or districts, shall be attached by compact adjoining assembly districts, to a contiguous county or counties, and form a congressional district. In dividing a county, or city and county, into congressional districts no assembly district shall be divided so as to form a part of more than one congressional district, and every such congressional district shall be composed of compact contiguous assembly districts.

(Constitution of 1849, Art. IV, Sec. 30, revised 1879.)

***Voting in Elections by Legislature***

SEC. 28. In all elections by the Legislature the members thereof shall vote *viva voce*, and the votes shall be entered on the Journal.

(Constitution of 1849, Art. IV, Sec. 38.)

***General Appropriation Bill, What May Contain***

SEC. 29. *Section repealed November 7, 1922. See Art. IV, Sec. 34.*

***Custody of State Funds—Disbursements***

SEC. 29. The Legislature may provide that any money belonging to the State in the control of any state agency or department or collected under the authority of this State from any source whatever other than money in the control of or collected by the Regents of the University of California shall be held in trust by the State Treasurer prior to its deposit in the State Treasury by the state agency or department as may be required by law. Any money held in trust may be disbursed by the State Treasurer upon the order of the state agency or department in the manner permitted by law and money held in trust may be deposited in banks to the same extent that money in the State Treasury may be deposited in banks.

(New section adopted November 3, 1942.)

***Public Aid for Sectarian Purposes Prohibited***

SEC. 30. Neither the Legislature, nor any county, city and county, township, school district, or other municipal corporation, shall ever make an appropriation, or pay from any public fund whatever, or

grant anything to or in aid of any religious sect, church, creed, or sectarian purpose, or help to support or sustain any school, college, university, hospital, or other institution controlled by any religious creed, church, or sectarian denomination whatever; nor shall any grant or donation of personal property or real estate ever be made by the State, or any city, city and county, town, or other municipal corporation for any religious creed, church, or sectarian purpose whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 22 of this article.

#### **Lending Public Credit—Gifts—Stock in Corporations**

SEC. 31. The Legislature shall have no power to give or to lend, or to authorize the giving or lending, of the credit of the State, or of any county, city and county, city, township or other political corporation or subdivision of the State now existing, or that may be hereafter established, in aid of or to any person, association, or corporation, whether municipal or otherwise, or to pledge the credit thereof, in any manner whatever, for the payment of the liabilities of any individual, association, municipal or other corporation whatever; nor shall it have power to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever; provided, that nothing in this section shall prevent the Legislature granting aid pursuant to Section 22 of this article; and it shall not have power to authorize the State, or any political subdivision thereof, to subscribe for stock, or to become a stockholder in any corporation whatever; provided, further, that irrigation districts for the purpose of acquiring the control of any entire international water system necessary for its use and purposes, a part of which is situated in the United States, and a part thereof in a foreign country, may in the manner authorized by law, acquire the stock of any foreign corporation which is the owner of, or which holds the title to the part of such system situated in a foreign country; provided, further, that irrigation districts for the purpose of acquiring water and water rights and other property necessary for their uses and purposes, may acquire and hold the stock of corporations, domestic or foreign, owning waters, water rights, canals, waterworks, franchises or concessions subject to the same obligations and liabilities as are imposed by law upon all other stockholders in such corporation; and

#### **Aid to Veterans**

Provided, further, that nothing contained in this Constitution shall prohibit the use of state money or credit, in aiding veterans who served in the military or naval service of the United States during time of war, in the acquisition of, or payments for, (1) farms or homes, or in projects of land settlement or in the development of such farms or homes or land settlement projects for the benefit of such veterans, or (2) any business, land or any interest therein, buildings, supplies,

equipment, machinery, or tools, to be used by the veteran in pursuing a gainful occupation.

The California Veterans' Welfare Bond Act of 1921 (Statutes of 1921, Chapter 578), as enacted at the Forty-fourth Session of the Legislature of the State of California, authorizing the issuance and sale of state bonds in the sum of \$10,000,000, for the purpose of creating a fund to carry out the provisions of the California Veterans' Welfare Act, providing land settlement for veterans (Statutes of 1921, Chapter 580), and the provisions of the "Veterans' Farm and Home Purchase Act," providing farm and home aid for veterans (Statutes of 1921, Chapter 519) is hereby approved, adopted, legalized, validated and made fully and completely effective irrespective of the vote that may be cast upon the proposition of approving or disapproving such Veterans' Welfare Bond Act of 1921 at the general election of November 7, 1922. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action.

#### ***Temporary Transfer of Funds to Political Subdivision***

And provided, still further, that notwithstanding the restrictions contained in this Constitution, the treasurer of any city, county, or city and county shall have power and it shall be his duty to make such temporary transfers from the funds in his custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any city, county, city and county, district, or other political subdivision whose funds are in his custody and are paid out solely through his office. Such temporary transfer of funds to any political subdivision shall be made only upon resolution adopted by the governing body of the city, county, or city and county directing the treasurer of such city, county, or city and county to make such temporary transfer. Such temporary transfer of funds to any political subdivision shall not exceed 85 percent of the taxes accruing to such political subdivision, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the taxes accruing to such political subdivision before any other obligation of such political subdivision is met from such taxes.

#### ***Glendale Assessments***

And provided, further, that the City of Glendale, of Los Angeles County, may, when authorized so to do, by a majority of the voters thereof voting at an election held for that purpose, pay from the surplus of the public service department of said city the amount of any assessment or assessments levied by said city between the eleventh day of May, 1921, and the ratification of this amendment, for the replacement of water mains, to the person or persons owning the property so assessed at the time said payment is so authorized; and that no statute of limitations shall apply in any manner.

(Amendment adopted November 5, 1946.)

**Owners May Be Compensated for Livestock Slaughtered**

SEC. 31a. No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide by general law, from public moneys or funds, for the indemnification of the owners of livestock taken, slaughtered or otherwise disposed of pursuant to law to prevent the spread of a contagious or infectious disease; provided, the amount paid in any case for such animal or animals shall not exceed the value of such animal or animals.

(New section adopted November 4, 1930.)

**Tax Liens—Presumption of Payment of Taxes After 30 Years**

(Two sections numbered 31b were adopted on November 8, 1932. See next section below.)

SEC. 31b. No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide that the lien of every tax, whether heretofore or hereafter attaching, shall cease to exist for all purposes after 30 years from the time such tax became a lien, or to provide that every tax whether heretofore or hereafter levied shall be conclusively presumed to have been paid after 30 years from the time the same became a lien unless the property subject thereto has been sold in the manner provided by law for the payment of said tax.

(New section adopted November 8, 1932.)

**Escondido Authorized to Hold Stock in Mutual Water Company**

(Two sections numbered 31b were adopted on November 8, 1932. See preceding section.)

SEC. 31b. *Repealed November 6, 1956.*

**Cities and School Districts Holding Shares in Water Companies**

(Another section of the same number was added in 1936. See next section.)

SEC. 31c. *Repealed November 6, 1956.*

**Relief From Street Improvement Bonds**

(Another section of the same number was added in 1934 and amended in 1942. See preceding section.)

SEC. 31c. No provision of this Constitution shall be construed as a limitation upon the power of the Legislature to provide by general law for the refunding, repayment or adjustment, from public funds raised or appropriated by the United States, the State or any city, city and county, or county for street and highway improvement purposes, of assessments or bonds, or any portion thereof, which have become a lien upon real property, and which were levied or issued to pay the cost of street or highway improvements or of opening and widening proceedings which may be or may have become of more than local benefit. Any such acts of the Legislature heretofore adopted are hereby confirmed and declared valid and shall have the same force and effect as if adopted after the effective date of this amendment.

(New section adopted November 3, 1936.)

***State Owning Shares in Mutual Water Companies***

SEC. 31d. *Section repealed November 6, 1956.*

***Extra Compensation for Past Services Prohibited***

SEC. 32. The Legislature shall have no power to grant, or authorize any county or municipal authority to grant, any extra compensation or allowance to any public officer, agent, servant, or contractor, after service has been rendered, or a contract has been entered into and performed, in whole or in part, nor to pay, or to authorize the payment of, any claim hereafter created against the State, or any county or municipality of the State, under any agreement or contract made without express authority of law; and all such unauthorized agreements or contracts shall be null and void.

***Regulation of Charges of Public Service Corporations \****

SEC. 33. The Legislature shall pass laws for the regulation and limitation of the charges for services performed and commodities furnished by telegraph and gas corporations, and the charges by corporations or individuals for storage and wharfage, in which there is a public use, and where laws shall provide for the selection of any person or officer to regulate and limit such rates, no such person or officer shall be selected by any corporation or individual interested in the business to be regulated, and no person shall be selected who is an officer or stockholder in any such corporation.

***The Executive Budget***

SEC. 34. The Governor shall, at each regular session of the Legislature, submit to the Legislature, with an explanatory message, a budget containing a complete plan and itemized statement of all proposed expenditures of the State provided by existing law or recommended by him, and of all its institutions, departments, boards, bureaus, commissions, officers, employees and other agencies, and of all estimated revenues, for the ensuing fiscal year, together with a comparison, as to each item of revenues and expenditures, with the actual revenues and expenditures for the last completed fiscal year and the actual and estimated expenditures for the existing fiscal year. If the proposed expenditures for the ensuing fiscal year shall exceed the estimated revenues therefor, the Governor shall recommend the sources from which the additional revenue shall be provided.

The Governor shall submit the budget within the first 30 days of each general session, and prior to its recess, and within the first three days of each budget session.

***Reports of State Officers***

The Governor, and also the Governor-elect, shall have the power to require any institution, department, board, bureau, commission, officer, employee or other agency to furnish him with any information which he

\* See also Article XIII, Section 23, page 166.

may deem necessary in connection with the budget or to assist him in its preparation.

#### ***The Budget Bill—Prior Passage of Other Appropriation Bills***

The budget shall be accompanied by an appropriation bill covering the proposed expenditures, to be known as the Budget Bill. The Budget Bill shall be introduced immediately into each house of the Legislature by the respective chairmen of the committees having to do with appropriations, and shall be subject to all the provisions of Section 15 of this article. The Governor may at any time amend or supplement the budget and propose amendments to the Budget Bill before or after its enactment, and each such amendment shall be referred in each house to the committee to which the Budget Bill was originally referred. Until the Budget Bill has been finally enacted, neither house shall place upon final passage any other appropriation bill, except emergency bills recommended by the Governor, or appropriations for the salaries, mileage and expenses of the Senate and Assembly.

No bill making an appropriation of money, except the Budget Bill, shall contain more than one item of appropriation, and that for one single and certain purpose to be therein expressed.\*

#### ***Powers of Governor—Referendum***

In any appropriation bill passed by the Legislature, the Governor may reduce or eliminate any one or more items of appropriation of money while approving other portions of the bill, whereupon the effect of such action and the further procedure shall be as provided in Section 16 of this article.

In case of conflict between this section and any other portion of this Constitution, the provisions of this section shall govern, except that any item of appropriation in the Budget Act, other than for the usual current expenses of the State, shall be subject to the referendum.

The Legislature shall enact all laws necessary or desirable to carry out the purposes of this section, and may enact additional provisions not inconsistent herewith.

(Amendment adopted November 5, 1946.)

#### ***Appropriations From General Fund—Limitations***

SEC. 34a. Appropriations from the General Fund of the State for any fiscal year, exclusive of appropriations for the support of the Public School System, shall not exceed by more than 5 per centum the appropriations from such fund, exclusive of such public school appropriations, for the preceding fiscal year unless two-thirds of all the members elected to each house of the Legislature vote in favor thereof; provided, that no amount appropriated in excess of such 5 per centum shall become a part of the base for determining the maximum appropriation for a succeeding fiscal year and provided that the base for the Ninety-

\* See also Article IV, Section 16, page 87.

ninth Fiscal Year shall be one-half of the base in effect for the Ninety-seventh and Ninety-eighth Fiscal Years plus 5 per centum. Should the appropriations in the Budget Act for any fiscal year exceed the limitations herein prescribed, and such Budget Act be not passed by such two-thirds vote, the several items of appropriation therein shall be deemed reduced by that percentage which the excess amount of appropriation bears to the total appropriation. Should the prescribed limit for any fiscal year be exceeded by reason of any other appropriation or appropriations from the General Fund, then the appropriation first passed by the Legislature without such two-thirds vote, which exceeds such prescribed limitation, shall be deemed reduced by the amount of such excess, and all other subsequent appropriations from the General Fund not passed by such two-thirds vote shall be void. Nothing herein contained shall prevent the Governor from vetoing any bills or reducing any appropriation therein or any appropriation reduced as herein provided.

#### ***State Ad Valorem Tax***

Not more than 25 per centum of the total appropriations from all funds of the State shall be raised by means of taxes on real and personal property according to the value thereof.

(Amendment adopted November 5, 1946.)

#### ***Lobbying a Felony***

SEC. 35. Any person who seeks to influence the vote of a member of the Legislature by bribery, promise of reward, intimidation, or any other dishonest means, shall be guilty of lobbying, which is hereby declared a felony; and it shall be the duty of the Legislature to provide, by law, for the punishment of this crime. Any Member of the Legislature, who shall be influenced in his vote or action upon any matter pending before the Legislature by any reward, or promise of future reward, shall be deemed guilty of a felony, and upon conviction thereof, in addition to such punishment as may be provided by law, shall be disfranchised and forever disqualified from holding any office or public trust. Any person may be compelled to testify in any lawful investigation or judicial proceeding against any person who may be charged with having committed the offense of bribery or corrupt solicitation, or with having been influenced in his vote or action, as a Member of the Legislature, by reward, or promise of future reward, and shall not be permitted to withhold his testimony upon the ground that it may criminate himself or subject him to public infamy; but such testimony shall not afterwards be used against him in any judicial proceeding, except for perjury in giving such testimony.

#### ***State Highway System Authorized***

SEC. 36. The Legislature shall have power to establish a System of State Highways or to declare any road a state highway, and to pass

all laws necessary or proper to construct and maintain the same, and to extend aid for the construction and maintenance in whole or in part of any county highway.

(New section adopted November 4, 1902.)

#### **Legislative Committees**

SEC. 37. In order to expedite the work of the Legislature, either house of the Legislature may by resolution provide for the appointment of committees to ascertain facts and to make recommendations as to any subject within the scope of legislative regulation or control, and joint committees for such purposes, consisting of members of both houses, may be created by concurrent resolutions.

The resolution creating any such committee may authorize it to act either during sessions of the Legislature or after final adjournment. Any such committee shall have such powers and perform such duties as may be provided by the resolution creating it and in addition shall have such powers and perform such duties as may be provided by law or by the rules of the Legislature or either house thereof.

Members of such committees shall not receive any additional compensation for their services other than their salaries as Members of the Legislature, but each house of the Legislature may provide for the payment of the expenses necessarily incurred by any such committee or the members thereof either from its Contingent Fund or from any money provided by law for that purpose.

Nothing in this section shall be deemed to authorize additional or increased expenditures for legislative help at any regular, special or extraordinary session of the Legislature in excess of the limitations imposed by Section 23a of this article, nor shall the creation of any committee as provided herein be deemed to extend the period of any legislative session. For the purpose of so limiting and determining expenditures for legislative help, any such session shall be deemed to be continuous from the first day of the session until the final adjournment thereof and to terminate on such final adjournment.

(New section adopted November 5, 1940.)

## **ARTICLE V**

### **Executive Department**

#### **Supreme Executive Power Vested in Governor**

SECTION 1. The supreme executive power of this State shall be vested in a chief magistrate, who shall be styled the Governor of the State of California.

(Constitution of 1849, Art. V, Sec. 1, revised 1879.)

**Election and Term of Governor**

SEC. 2. The Governor shall be elected by the qualified electors at the time and places of voting for Members of the Assembly, and shall hold his office four years from and after the first Monday after the first day of January subsequent to his election, and until his successor is elected and qualified.

(Constitution of 1849, Art. V, Sec. 2, revised 1879.)

**Governor—Who Eligible to Office**

SEC. 3. No person shall be eligible to the office of Governor who has not been a citizen of the United States and a resident of this State five years next preceding his election, and attained the age of 25 years at the time of such election.

(Constitution of 1849, Art. V, Sec. 3, revised 1879.)

**Election Returns**

SEC. 4. *Section repealed November 5, 1940.*

**Election Returns of Governor and Lieutenant Governor**

SEC. 4.5. The Legislature may regulate by law the manner of making returns of elections for Governor and Lieutenant Governor.

The legislation enacted at the Fifty-third Session of the Legislature regulating the manner of making returns of elections for Governor and Lieutenant Governor is hereby ratified and validated, and it shall have the same force and effect as if it had been passed after the adoption of this provision of the Constitution.

(New section adopted November 5, 1940.)

**Governor Is Commander in Chief**

SEC. 5. The Governor shall be Commander in Chief of the Militia, the army and navy of this State.

(Constitution of 1849, Art. V, Sec. 5, revised 1879.)

**Governor Transacts All Executive Business—May Require Reports**

SEC. 6. He shall transact all executive business with the officers of government, civil and military, and may require information, in writing, from the officers of the Executive Department, upon any subject relating to the duties of their respective offices.

(Constitution of 1849, Art. V, Sec. 6, revised 1879.)

**Governor Responsible for Execution of Laws**

SEC. 7. He shall see that the laws are faithfully executed.

(Constitution of 1849, Art. V, Sec. 7.)

**Vacancies Filled by Governor**

SEC. 8. When any office shall, from any cause, become vacant, and no mode is provided by the Constitution and law for filling such vacancy, the Governor shall have power to fill such vacancy by granting

a commission, which shall expire at the end of the next session of the Legislature, or at the next election by the people.

(Constitution of 1849, Art. V, Sec. 8, revised 1879.)

#### ***Governor May Convene Legislature in Extraordinary Session—Business Thereat***

SEC. 9. He may, on extraordinary occasions, convene the Legislature by proclamation, stating the purposes for which he has convened it, and when so convened it shall have no power to legislate on any subjects other than those specified in the proclamation, but may provide for the expenses of the session and other matters incidental thereto.

(Constitution of 1849, Art. V, Sec. 9, revised 1879.)

#### ***Governor's Message to Legislature***

SEC. 10. He shall communicate by message to the Legislature, at every session, the condition of the State, and recommend such matters as he shall deem expedient.

(Constitution of 1849, Art. V, Sec. 10, revised 1879.)

#### ***Adjournment of Legislature by Governor***

SEC. 11. In case of a disagreement between the two houses with respect to the time of adjournment, the Governor shall have power to adjourn the Legislature to such time as he may think proper; provided, it be not beyond the time fixed for the meeting of the next Legislature.

(Constitution of 1849, Art. V, Sec. 11, revised 1879.)

#### ***Governor—Who Ineligible to Office***

SEC. 12. No person shall, while holding any office under the United States or this State, exercise the office of Governor except as herein-after expressly provided.

(Constitution of 1849, Art. V, Sec. 12, revised 1879.)

#### ***The Great Seal***

SEC. 13. There shall be a seal of this State, which shall be kept by the Governor, and used by him officially, and shall be called "The Great Seal of the State of California."

(Constitution of 1849, Art. V, Sec. 14, revised 1879.)

#### ***Grants and Commissions—How Signed and Sealed***

SEC. 14. All grants and commissions shall be in the name and by the authority of the people of the State of California, sealed with the Great Seal of the State, signed by the Governor, and countersigned by the Secretary of State.

(Constitution of 1849, Art. V, Sec. 15, revised 1879.)

#### ***Lieutenant Governor, Election, Term, Qualifications and Duties***

SEC. 15. A Lieutenant Governor shall be elected at the same time and place and in the same manner as the Governor, and his term of

office and his qualifications shall be the same. He shall be President of the Senate, but shall only have a casting vote therein.

(Amendment adopted November 8, 1898.)

**Order of Succession to Office of Governor and Lieutenant Governor \***

SEC. 16. In case of vacancy in the office of Governor the Lieutenant Governor shall become Governor and the last duly elected President pro Tempore of the Senate shall become Lieutenant Governor for the residue of the term; but, if there be no such President pro Tempore of the Senate, the last duly elected Speaker of the Assembly shall become Lieutenant Governor for the residue of the term. In case of vacancy in the office of Governor and in the office of Lieutenant Governor, the powers and duties of the office of Governor shall devolve, for the residue of the term, upon the last duly elected President pro Tempore of the Senate, and those of the office of Lieutenant Governor upon the last duly elected Speaker of the Assembly; or if there be no President pro Tempore of the Senate, then the powers and duties of the office of Governor shall devolve for the residue of the term upon the last duly elected Speaker of the Assembly; or if there be none, then upon the Secretary of State; or if there be none, then upon the Attorney General; or if there be none, then upon the Treasurer; or if there be none, then upon the Controller; and such person upon acting as Governor shall receive the salary and perquisites of Governor. If at the time this amendment takes effect a vacancy has occurred in the office of Governor or in the offices of Governor and Lieutenant Governor, within the term or terms thereof, the provisions of this section as amended by this amendment shall apply. In case of impeachment of the Governor or officer acting as Governor, his absence from the State, or his other temporary disability to discharge the powers and duties of office, then the powers and duties of the office of Governor devolve upon the same officer as in the case of vacancy in the office of Governor, but only until the disability shall cease.

In case of the death, disability or other failure to take office of the Governor-elect, whether occurring prior or subsequent to the returns of election, the Lieutenant Governor-elect shall act as Governor from the same time and in the same manner as provided for the Governor-elect and shall act as Governor for the full term or until the disability of the Governor-elect shall cease.

In case of the death, disability or other failure to take office of both the Governor-elect and the Lieutenant Governor-elect, the last duly elected President pro Tempore of the Senate, or in case of his death, disability, or other failure to take office, the last duly elected Speaker of the Assembly, or in case of his death, disability, or other failure to take office, the Secretary of State-elect, or in case of his death, disability, or other failure to take office, the Attorney General-elect, or in case of his death, disability, or other failure to take office, the Treasurer-elect, or

\* See also Article XXIII, Section 1, page 221.

in case of his death, disability, or other failure to take office, the Controller-elect shall act as Governor from the same time and in the same manner as provided for the Governor-elect. Such person shall act as Governor for the full term or until the disability of the Governor-elect shall cease.

In any case in which a vacancy shall occur in the office of Governor, and provision is not made in this Constitution for filling such vacancy, the senior Deputy Secretary of State shall convene the Legislature by proclamation to meet within eight days after the occurrence of the vacancy in joint convention of both houses at an extraordinary session for the purpose of choosing a person to act as Governor until the office may be filled at the next general election appointed for election to the office of Governor.

At such a session the Legislature may provide for the necessary expenses of the session and other matters incidental thereto.

(Amendment adopted November 2, 1948.)

#### **Other Officers of State**

SEC. 17. A Secretary of State, a Controller, a Treasurer, an Attorney General, and a Surveyor General \* shall be elected at the same time and places, and in the same manner as the Governor and Lieutenant Governor, and their terms of office shall be the same as that of the Governor.

(Constitution of 1849, Art. V, Sec. 18, revised 1879.)

#### **Duties of Secretary of State**

SEC. 18. The Secretary of State shall keep a correct record of the official acts of the Legislative and Executive Departments of the government, and shall, when required, lay the same, and all matters relative thereto, before either branch of the Legislature, and shall perform such other duties as may be assigned him by law.

(Constitution of 1849, Art. V, Sec. 19, revised 1879.)

#### **Compensation of Executive Officers**

SEC. 19. The Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, and Surveyor General \* shall, at stated times during their continuance in office, receive for their services a compensation which shall not be increased or diminished during the term for which they shall have been elected, which compensation is hereby fixed for the following officers, as follows †: Governor, \$10,000 per annum; Lieutenant Governor, \$4,000, the Secretary of State, Controller, Treasurer, and Surveyor General, \$5,000 each per annum, and the Attorney General, ‡ \$6,000 per annum, such compensation to be in full for all services by them respectively rendered in any official capacity or employment whatsoever during their respective

\* See last sentence of Section 19 of Article V, page 108.

† See also Section 22, Article V, page 109.

‡ See also Section 21, Article V, page 108.

terms of office; provided, however, that the Legislature may, by law, diminish the compensation of any or all of such officers, but in no case shall have the power to increase the same above the sums hereby fixed by this Constitution. No salary shall be authorized by law for clerical service, in any office provided for in this article, exceeding \$1,800 per annum for each clerk employed. The Legislature may, in its discretion, abolish the office of Surveyor General \*; and none of the officers hereinbefore named shall receive for their own use any fees or perquisites for the performance of any official duty.

(Amendment adopted November 3, 1908. *See also Art. V, Sections 21 and 22.*)

#### ***Election of United States Senators***

SEC. 20. United States Senators shall be elected by the people of the State in the manner provided by law.

(Amendment adopted November 3, 1914.)

#### ***Law Enforcement Powers of Attorney General***

SEC. 21. Subject to the powers and duties of the Governor vested in him by Article V of the Constitution, the Attorney General shall be the chief law officer of the State and it shall be his duty to see that the laws of the State of California are uniformly and adequately enforced in every county of the State. He shall have direct supervision over every district attorney and sheriff and over such other law enforcement officers as may be designated by law, in all matters pertaining to the duties of their respective offices, and may require any of said officers to make to him such written reports concerning the investigation, detection, prosecution and punishment of crime in their respective jurisdictions as to him may seem advisable. Whenever in the opinion of the Attorney General any law of the State is not being adequately enforced in any county, it shall be the duty of the Attorney General to prosecute any violations of law of which the superior court shall have jurisdiction, and in such cases he shall have all the powers of a district attorney. When required by the public interest, or directed by the Governor, he shall assist any district attorney in the discharge of his duties. In addition to appropriations made by law for the use of the Attorney General, the Governor and the Controller may in writing authorize the setting aside and the payment in accordance with law, from moneys in the State Treasury not otherwise appropriated, of such sums as they consider proper for the necessary expenses of the Attorney General in performing the duties imposed by this paragraph.

He shall also have such powers and perform such duties as are or may be prescribed by law and which are not inconsistent herewith.

#### ***Compensation of Attorney General***

The Attorney General shall receive the same salary as that now or hereafter prescribed by law for an Associate Justice of the Supreme Court, and he shall not engage in the private practice of law, nor shall

\* Abolished by Political Code, Section 690.

he be associated directly or indirectly with any attorney in private practice; and he shall devote his entire time to the service of the State.

All provisions of this section shall be self-executing, but legislation may be enacted to facilitate their operation.

(New section adopted November 6, 1934. Initiative measure.)

#### **Compensation of Constitutional Officers**

SEC. 22. Notwithstanding anything contained elsewhere in this Constitution, the compensation for the services of the Governor, the Lieutenant Governor, the State Controller, Secretary of State, Superintendent of Public Instruction and State Treasurer may be fixed at any time by the Legislature at an amount not less than \$10,000 per annum, for the Governor, and not less than \$5,000 per annum for each of the other state officers named herein. Except by an act passed at the Fifty-seventh Regular Session of the Legislature, the compensation of no state officer named herein shall be increased nor diminished during his term of office.

(Amendment adopted November 5, 1946. *See also Art. V, Sections 19 and 21.*)

## **ARTICLE VI**

### **Judicial Department**

#### **Courts in Which Judicial Power Is Vested**

SECTION 1. The judicial power of the State shall be vested in the Senate, sitting as a court of impeachment, in a Supreme Court, district courts of appeal, superior courts, municipal courts, and justice courts.

(Amendment adopted November 7, 1950.)

#### **Judicial Council—Membership**

SEC. 1a. There shall be a Judicial Council. It shall consist of the Chief Justice or Acting Chief Justice, and of one Associate Justice of the Supreme Court, three justices of district courts of appeal, four judges of superior courts, one judge of a police or municipal court, and one judge of an inferior court, assigned by the Chief Justice to sit thereon for terms of two years; provided, that if any judge so assigned shall cease to be a judge of the court from which he is assigned, his term shall forthwith terminate. The Chief Justice or Acting Chief Justice shall be chairman. No act of the council shall be valid unless concurred in by six members.

#### **Judicial Council—Duties—Rules**

The Judicial Council shall from time to time:

- (1) Meet at the call of the chairman or as otherwise provided by it.
- (2) Survey the condition of business in the several courts with a view to simplifying and improving the administration of justice.
- (3) Submit such suggestions to the several courts as may seem in the interest of uniformity and the expedition of business.

(4) Report to the Governor and Legislature at the commencement of each regular session with such recommendations as it may deem proper.

(5) Adopt or amend rules of practice and procedure for the several courts not inconsistent with laws that are now or that may hereafter be in force; and the council shall submit to the Legislature, at each regular session thereof, its recommendations with reference to amendments of, or changes in, existing laws relating to practice and procedure.

(6) Exercise such other functions as may be provided by law.

The chairman shall seek to expedite judicial business and to equalize the work of the judges, and shall provide for the assignment of any judge to another court of a like or higher jurisdiction to assist a court or judge whose calendar is congested, to act for a judge who is disqualified or unable to act, or to sit and hold court where a vacancy in the office of judge has occurred.

The Clerk of the Supreme Court shall act as secretary of the council.

The several judges shall cooperate with the council, shall sit and hold court as assigned, and shall report to the chairman at such times and in such manner as he shall request respecting the condition, and manner of disposal, of judicial business in their respective courts.

#### *Judicial Council—Compensation*

No member of the council shall receive any compensation for his services as such, but shall be allowed his necessary expenses for travel, board and lodging incurred in the performance of his duties as such. Any judge assigned to a court wherein a judge's compensation is greater than his own shall receive while sitting therein the compensation of a judge thereof. The extra compensation shall be paid in such manner as may be provided by law. Any judge assigned to a court in a county other than that in which he regularly sits shall be allowed his necessary expenses for travel, board and lodging incurred in the discharge of the assignment.

(New section adopted November 2, 1926.)

#### *Supreme Court—Distribution and Conduct of Business*

SEC. 2. The Supreme Court shall consist of a Chief Justice and six Associate Justices. The court may sit in departments and in bank, and shall always be open for the transaction of business. There shall be two departments, denominated, respectively, Department One and Department Two. The Chief Justice shall assign three of the Associate Justices to each department, and such assignment may be changed by him from time to time. The Associate Justices shall be competent to sit in either department, and may interchange with each other by agreement among themselves or as ordered by the Chief Justice. Each of the departments shall have the power to hear and determine causes and all questions arising therein, subject to the provisions hereinafter contained in relation to the court in bank. The presence of three justices shall be necessary to transact any business in either of the departments.

except such as may be done at chambers, and the concurrence of three justices shall be necessary to pronounce a judgment. The Chief Justice shall apportion the business to the departments, and may, in his discretion, order any cause pending before the court to be heard and decided by the court in bank. The order may be made before or after judgment pronounced by a department; but where a cause has been allotted to one of the departments, and a judgment pronounced thereon, the order must be made within 30 days after such judgment, and concurred in by two Associate Justices, and if so made it shall have the effect to vacate and set aside the judgment. Any four justices may, either before or after judgment by a department, order a case to be heard in bank. If the order be not made within the time above limited the judgment shall be final. No judgment by a department shall become final until the expiration of the period of 30 days aforesaid, unless approved by the Chief Justice, in writing, with the concurrence of two Associate Justices. The Chief Justice may convene the court in bank at any time, and shall be the Presiding Justice of the court when so convened. The concurrence of four justices present at the argument shall be necessary to pronounce a judgment in bank; but if four justices, so present, do not concur in a judgment, then all the justices qualified to sit in the cause shall hear the argument; but to render a judgment a concurrence of four judges shall be necessary. In the determination of causes, all decisions of the court in bank or in departments shall be given in writing, and the grounds of the decision shall be stated. The Chief Justice may sit in either department, and shall preside when so sitting, but the justices assigned to each department shall select one of their number as Presiding Justice. In case of the absence of the Chief Justice from the place at which the court is held, or his inability to act, the Associate Justices shall select one of their own number to perform the duties and exercise the powers of the Chief Justice during such absence or inability to act.

(Constitution of 1849, Art. VI, Sec. 2, revised 1879.)

#### **Supreme Court Justices—Elections and Terms—Vacancies**

SEC. 3. The Chief Justice and the Associate Justices shall be elected by the qualified electors of the State at large at the general elections, at the time and places at which state officers are elected, except as provided by Section 2 $\frac{1}{2}$  of Article II of this Constitution, and the term of office shall be 12 years from and after the first day of January next succeeding their election. If a vacancy occur in the office of a justice, the Governor shall appoint a person to hold the office until the election and qualification of a justice to fill the vacancy, which election shall take place at the next succeeding general state or primary election after the first day of April next succeeding the occurrence of such vacancy; the justice then elected shall hold office for the unexpired term; provided, that whenever the term of office of the justice whose place is filled by appointment is fixed by law to expire on the first day of January after the next or such succeeding general election, then the

person so appointed to fill the vacancy shall hold office for the remainder of such unexpired term.\*

(Amendment adopted November 6, 1928.)

#### *Jurisdiction of Supreme Court*

SEC. 4. The Supreme Court shall have appellate jurisdiction on appeal from the superior courts in all cases in equity, except such as arise in municipal or justices' courts; also, in all cases at law which involve the title or possession of real estate, or the legality of any tax, impost, assessment, toll, or municipal fine also, in all such probate matters as may be provided by law; also, on questions of law alone, in all criminal cases where judgment of death has been rendered; the said court shall also have appellate jurisdiction in all cases, matters and proceedings pending before a district court of appeal, which shall be ordered by the Supreme Court to be transferred to itself for hearing and decision, as hereinafter provided. The said court shall also have power to issue writs of mandamus, certiorari, prohibition, and habeas corpus, and all other writs necessary or proper to the complete exercise of its appellate jurisdiction. Each of the justices shall have power to issue writs of habeas corpus to any part of the State, upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the Supreme Court or before any district court of appeal, or before any justice thereof, or before any superior court in the State, or before any judge thereof.

(Amendment adopted November 6, 1928.)

#### *District Courts of Appeal—Organization—New Courts and Divisions*

SEC. 4a. The State is hereby divided into three appellate districts, in each of which there shall be a district court of appeal, consisting of such number of divisions having three justices each as the Legislature shall determine; and until so determined otherwise, the courts of appeal for the First and Second Appellate Districts shall each consist of two divisions, and the court of the Third Appellate District shall consist of one division.

The Legislature may from time to time create and establish additional district courts of appeal and divisions thereof and fix the places at which the regular sessions thereof shall be held and may provide for the maintenance and operation thereof. For that purpose the Legislature may redivide the State into appellate districts, subject to the power of the Supreme Court to remove one or more counties from one appellate district to another as in this section provided.

Each of such divisions shall have and exercise all of the powers of the district court of appeal.

The district court of appeal as existing immediately prior to the approval and ratification of this amendment by the people shall not be affected thereby as to the officers or terms of office of the justices thereof.

\* See also Article VI, Section 26, page 122.

Upon the creation of any additional division of the district court of appeal the Governor shall appoint three persons to serve as justices thereof until the first day of January after the next general election. The justices of said division elected at such general election shall so classify themselves by lot that one of them shall go out of office at the end of four years, one of them at the end of eight years, and one of them at the end of 12 years, and entry of such classification shall be made in the minutes of said division, signed by the three justices thereof, and a duplicate thereof filed in the Office of the Secretary of State.

#### ***Appellate Court Justices \*—Election and Terms***

The justices of the district courts of appeal shall be elected by the qualified electors within their respective districts at the general state elections except as provided in Section 2 $\frac{1}{2}$  of Article II; \* and the term of office of said justices shall be 12 years from and after the first day of January next succeeding their election.

#### ***Appellate Court Justices—Vacancies***

If any vacancy occur in the office of a justice of the district courts of appeal, the Governor shall appoint a person to hold office until the election and qualification of a justice to fill the vacancy. Such election shall take place at the next succeeding general state or primary election after the first day of April next succeeding the occurrence of such vacancy; the justice then elected shall hold office for the unexpired term; provided, that whenever the term of office of the justice whose place is filled by appointment is fixed by law to expire on the first day of January after the next or such succeeding general election, then the person so appointed to fill the vacancy shall hold office for the remainder of such unexpired term.

#### ***Appellate Courts—Presiding Justices***

One of the justices of each of the district courts of appeal, and of each division of said courts, shall be the presiding justice thereof, and as such shall be appointed or elected, as the case may be.

In cases wherein the presiding justice is not acting, the other justices shall designate one of their number to perform the duties and exercise the powers of presiding justice.

The presence of two justices shall be necessary for the transaction of any business by such court except such as may be done at chambers, and the concurrence of two justices shall be necessary to pronounce a judgment.

#### ***Transfer of Appeals***

No appeal taken to the Supreme Court or to a district court of appeal shall be dismissed for the reason only that the same was not taken to the proper court, but the cause shall be transferred to the

\* See also Article VI, Section 26, page 123.

proper court upon such terms as to costs or otherwise as may be just, and shall be proceeded with therein as if regularly appealed thereto.

All statutes now in force allowing, providing for or regulating appeals to the Supreme Court shall apply to appeals to the district courts of appeal so far as such statutes are not inconsistent with this article and until the Legislature shall otherwise provide.

#### *District Courts of Appeal—Districts—Sessions*

The First District shall embrace the following counties: San Francisco, Marin, Contra Costa, Alameda, San Mateo, Santa Clara, Fresno,\* Santa Cruz, Monterey and San Benito.

The Second District shall embrace the following counties: Tulare,\* Kings,\* San Luis Obispo, Kern,\* Inyo,\* Santa Barbara, Ventura, Los Angeles, San Bernardino,\* Orange,\* Riverside,\* San Diego,\* and Imperial.\*

The Third District shall embrace the following counties: Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Lake, Colusa, Glenn, Butte, Sierra, Sutter, Yuba, Nevada, Sonoma, Napa, Yolo, Placer, Solano, Sacramento, El Dorado, San Joaquin, Amador, Calaveras, Stanislaus, Mariposa, Madera, Merced, Tuolumne, Alpine and Mono.

The Supreme Court, by orders entered in its minutes, may from time to time remove one or more counties from one appellate district to another, but no county not contiguous to another county of a district shall be added to such district.

Said district courts of appeal shall hold their regular sessions respectively at San Francisco, Los Angeles and Sacramento, and they shall always be open for the transaction of business.

(New section adopted November 6, 1928.)

#### *District Courts of Appeal—Jurisdiction*

SEC. 4b. The district courts of appeal shall have appellate jurisdiction on appeal from the superior courts (except in cases in which appellate jurisdiction is given to the Supreme Court) in all cases at law in which the superior courts are given original jurisdiction; also, in all cases of forcible or unlawful entry or detainer (except such as arise in municipal, or in justices' or other inferior courts); in proceedings in insolvency; in actions to prevent or abate a nuisance; in proceedings of mandamus, certiorari, prohibition, usurpation of office, removal from office, contesting elections, eminent domain, and in such other special proceedings as may be provided by law; also, on questions of law alone, in all criminal cases prosecuted by indictment or information, except where judgment of death has been rendered.

The said courts shall also have appellate jurisdiction in all cases, matters, and proceedings pending before the Supreme Court which shall be ordered by the Supreme Court to be transferred to a district court

\* Now in Fourth Appellate District. See Chapter 691, page 1202, Statutes of 1929.

of appeal for hearing and decision. The said courts shall also have power to issue writs of mandamus, certiorari, prohibition and habeas corpus, and all other writs necessary or proper to the complete exercise of their appellate jurisdiction. Each of the justices thereof shall have power to issue writs of habeas corpus to any part of his appellate district upon petition by or on behalf of any person held in actual custody, and may make such writs returnable before himself or the district court of appeal of his district, or before any superior court within his district, or before any judge thereof.

(New section adopted November 6, 1928.)

**Civil and Criminal Appeals—Transfer of Causes From Supreme Court to Appellate Court or Between Appellate Courts**

SEC. 4c. The Supreme Court may order any case: (i) in the Supreme Court transferred to a district court of appeal for decision; and (ii) in the district court of appeal for one district transferred to the district court of appeal for another district, or in one division of a district court of appeal transferred to another division of the same district court of appeal, for decision. An order under this section must be made before decision by the court or division from which the case is to be transferred.

(Amendment adopted November 6, 1956.)

**Civil and Criminal Appeals—Transfer of Causes From Appellate Court to Supreme Court**

SEC. 4d. The Supreme Court may order any case in a district court of appeal transferred to it for decision. An order under this section may be made before decision by the district court of appeal or thereafter up to the time such decision becomes final as provided by rule of the Judicial Council.

(New section adopted November 6, 1956.)

**New Trial Only When Miscarriage of Justice Has Resulted**

SEC. 4½. No judgment shall be set aside, or new trial granted, in any case, on the ground of misdirection of the jury, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, unless, after an examination of the entire cause, including the evidence, the court shall be of the opinion that the error complained of has resulted in a miscarriage of justice.

(Amendment adopted November 3, 1914.)

**Taking of Evidence by Court of Appellate Jurisdiction—Findings**

SEC. 4¾. In all cases where trial by jury is not a matter of right or where trial by jury has been waived, the Legislature may grant to any court of appellate jurisdiction the power, in its discretion, to make findings of fact contrary to, or in addition to, those made by the trial court.

The Legislature may provide that such findings may be based on the evidence adduced before the trial court, either with or without the taking of additional evidence by the court of appellate jurisdiction. The Legislature may also grant to any court of appellate jurisdiction the power, in its discretion, for the purpose of making such findings or for any other purpose in the interest of justice, to take additional evidence of or concerning facts occurring at any time prior to the decision of the appeal, and to give or direct the entry of any judgment or order and to make such further or other order as the case may require.

(New section adopted November 2, 1926.)

#### **Superior Courts—Jurisdiction**

SEC. 5. The superior courts shall have original jurisdiction in all civil cases and proceedings (except as in this article otherwise provided, and except, also cases and proceedings in which jurisdiction is or shall be given by law to municipal or to justices or other inferior courts); in all criminal cases amounting to felony, and cases of misdemeanor not otherwise provided for; and of all such special cases and proceedings as are not otherwise provided for; and said court shall have the power of naturalization and to issue papers therefor.

The superior courts shall have appellate jurisdiction in such cases arising in municipal and in justices' and other inferior courts in their respective counties or cities and counties as may be prescribed by law. The Legislature may, in addition to any other appellate jurisdiction of the superior courts, also provide for the establishment of appellate departments of the superior court in any county or city and county wherein any municipal court is established, and for the constitution, regulation, jurisdiction, government and procedure of such appellate departments. Superior courts, municipal courts and justices' courts in cities having a population of more than 40,000 inhabitants shall always be open, legal holidays and nonjudicial days excepted. The process of superior courts shall extend to all parts of the State; provided, that all actions for the recovery of the possession of, quieting the title to, or for the enforcement of liens upon real estate, shall be commenced in the county in which the real estate, or any part thereof, affected by such action or actions, is situated. Said superior courts, and their judges shall have power to issue writs of mandamus, certiorari, prohibition, quo warranto, and habeas corpus on petition by or on behalf of any person in actual custody, in their respective counties. Injunctions and writs of prohibition may be issued and served on legal holidays and nonjudicial days. The process of any municipal court shall extend to all parts of the county or city and county in which the city is situated where such court is established, and to such other parts of the State as may be provided by law, and such process may be executed or enforced in such manner as the Legislature shall provide.

**Judges pro Tempore**

Upon stipulation of the parties litigant or their attorneys of record a cause in the superior court or in a municipal court may be tried by a judge pro tempore who must be a member of the bar sworn to try the cause, and who shall be empowered to act in such capacity in the cause tried before him until the final determination thereof. The selection of such judge pro tempore shall be subject to the approval and order of the court in which said cause is pending and shall also be subject to such regulations and orders as may be prescribed by the Judicial Council.

(Amendment adopted November 6, 1928.)

**Superior Courts—Organization**

SEC. 6. There shall be in each of the organized counties, or cities and counties, of the State, a superior court, for each of which at least one judge shall be elected by the qualified electors of the county, or city and county, at the general state election.\* There may be as many sessions of a superior court, at the same time, as there are judges elected, appointed or assigned thereto. The judgments, orders, and proceedings of any session of a superior court, held by any one or more of the judges sitting therein, shall be equally effectual as though all the judges of said court presided at such session.

(Amendment adopted November 2, 1928.)

**Superior Courts—Presiding Judges**

SEC. 7. The judges of each superior court in which there are more than two judges sitting, shall choose, from their own number, a presiding judge, who may be removed as such at their pleasure. Subject to the regulations of the Judicial Council, he shall distribute the business of the court among the judges, and prescribe the order of business.

(Amendment adopted November 2, 1928.)

**Superior Court Judges—Terms—Vacancies**

SEC. 8. The term of office of judges of the superior courts shall be six years from and after the first Monday of January after the first day of January next succeeding their election. A vacancy in such office shall be filled by the election of a judge for a full term at the next general state election after the first day of January next succeeding the accrual of the vacancy; except that if the term of an incumbent, elective or appointive, is expiring at the close of the year of a general state election and a vacancy accrues after the commencement of that year and prior to the commencement of the ensuing term, the election to fill the office for the ensuing full term shall be held in the closing year of the expiring term in the same manner and with the same effect as though such vacancy had not accrued. In the event of any vacancy, the Governor

\* See also Article VI, Section 26, page 123.

shall appoint a person to hold the vacant office until the commencement of the term of the judge elected to the office as herein provided.\*

(Amendment adopted November 4, 1952.)

**Absence of Judge From State—Change in Number of Superior Judges †**

SEC. 9. The Legislature shall have no power to grant leave of absence to any judicial officer; and any such officer who shall absent himself from the State for more than 60 consecutive days shall be deemed to have forfeited his office. The Legislature of the State may at any time, two-thirds of the Members of the Senate and two-thirds of the Members of the Assembly voting therefor, increase or diminish the number of judges of the superior court in any county, or city and county, in the State; provided, that no such reduction shall affect any judge who has been elected.

(Constitution of 1849, Art. VI, portion of Sec. 5, revised 1879.)

**Removal of Judicial Officers**

SEC. 10. Justices of the Supreme Court, and of the district courts of appeal, and judges of the superior courts may be removed by concurrent resolution of both houses of the Legislature adopted by a two-thirds vote of each house. All other judicial officers, except justices of the peace, may be removed by the Senate on the recommendation of the Governor; but no removal shall be made by virtue of this section unless the cause thereof be entered on the Journal, nor unless the party complained of has been served with a copy of the complaint against him and shall have had an opportunity of being heard in his defense. On the question of removal the ayes and noes shall be entered on the Journal.

(Amendment adopted November 8, 1904.)

**Removal of Judges for Conviction of Crimes**

SEC. 10a. Whenever a Justice of the Supreme Court, or of a district court of appeal, or a judge of any court of this State, has been convicted in any court of this State or of the United States, of a crime involving moral turpitude, the Supreme Court shall of its own motion or upon a petition filed by any person, and upon finding that such a conviction was had, enter its order suspending said justice or judge from office until such time as said judgment of conviction becomes final, and the payment of salary of said justice or judge shall also be suspended from the date of such order. When said judgment of conviction becomes final, the Supreme Court shall enter its order permanently disbarring said justice or judge and striking his name from the roll of attorneys and counselors, and removing said justice or judge from office and his right to salary shall cease from the date of the order of suspension. If said judgment of conviction is reversed, the Supreme Court shall enter its order terminating the suspension of said justice

\* See also Article VI, Section 26, page 123.

† See also Article VI, Section 26, last paragraph, page 124.

or judge and said justice or judge shall be entitled to his salary for the period of the suspension.

(New section adopted November 8, 1938.)

SEC. 11. *As printed in Stats. 1923, p. 1641, repealed November 6, 1928.*

*Municipal and Inferior Courts—Establishment of Uniform System—Legislature to Prescribe Jurisdiction, Procedure, Etc.—Judges, Election of*

SEC. 11.\* Each county of the State shall be divided into judicial districts in the manner to be prescribed by the Legislature; provided, however, that no incorporated city or city and county shall be divided so as to lie partly within one district and partly within another.

In each district containing a population of more than 40,000 inhabitants, as ascertained in the manner prescribed by the Legislature, and in each consolidated city and county there shall be a municipal court; in each district containing a population of 40,000 inhabitants or less, as ascertained in the manner prescribed by the Legislature, there shall be a justice court, except that the Legislature may provide that each incorporated city the boundaries of which were coextensive with those of the township two years before the effective date of this amendment and which is entirely surrounded by another incorporated city containing a population of more than 40,000 inhabitants shall constitute a judicial district in which there shall be a municipal court. For each such municipal court and justice court at least one judge, with such additional judges as may be authorized, shall be elected by the qualified electors of the district; provided, however, that the judges of the municipal courts heretofore established pursuant to general law shall continue in office during the terms for which they were elected or appointed and until their successors are elected and qualify.

The Legislature shall provide by general law for the regulation, government, procedure and jurisdiction of municipal courts and of justice courts, and shall fix by law the powers, duties and responsibilities of such courts and of the judges thereof.

*Municipal and Justice Courts—Judges, Officers, and Attaches—Terms—Number—Qualifications—Compensation*

Except as such matters are otherwise provided in this article, the Legislature shall prescribe the manner in which, the time at which, and the terms for which the judges, officers and attaches of municipal courts and of justice courts shall be elected or appointed, the number, qualifications and compensation of the judges, officers and attaches of municipal courts, and provide for the manner in which the number, qualifications and compensation of the judges, officers and attaches of justice courts shall be fixed.

In each judicial district or consolidated city and county in which a municipal or justice court is established, and in cities and townships

\* See also Article XI, Section 7½, subdivision 3, page 141, and Section 8½, subdivision 1, page 148.

situated in whole or in part in such district or city and county, there shall be no other court inferior to the superior court; provided, however, that in each such district or city and county existing courts shall continue to function as presently organized until the first selection and qualification of the judge or judges of the municipal or justice court, at which time, unless otherwise provided by law, pending actions, trials and all pending business of existing courts shall be transferred to and become pending in the municipal or justice court established for the judicial district or city and county in which they are situated, and all records of such superseded courts shall be transferred to, and thereafter be and become records of said municipal or justice court.

#### **Courts of Record—Compensation of Justices or Judges**

The compensation of the justices or judges of all courts of record shall be fixed, and the payment thereof prescribed, by the Legislature.

#### **Validations**

The Legislature shall enact such general or special laws, except in the particulars otherwise specified herein, as may be necessary to carry out the provisions of this section, and all laws relating to municipal and justice courts and to judicial districts enacted by the Legislature at its 1949 Regular Session are hereby validated and made fully and completely effective.

(Amendment adopted November 7, 1950.)

#### **Inferior Courts—Number and Jurisdiction**

SEC. 11a. *Section repealed November 7, 1950.*

#### **Courts of Record**

SEC. 12.\* The Supreme Court, the district courts of appeal, the superior courts, the municipal courts, and such other courts as the Legislature shall prescribe, shall be courts of record.

(Amendment adopted November 4, 1924.)

#### **Legislature May Fix Jurisdiction of Municipal and Inferior Courts**

SEC. 13. *Section repealed November 7, 1950.*

#### **Superior Courts—Clerks—Commissioners**

SEC. 14. The county clerks shall be ex officio clerks of the courts of record, other than municipal courts, in and for their respective counties or cities and counties. The Legislature may also provide for the appointment, by the several superior courts, of one or more commissioners in their respective counties, or cities and counties, with authority to perform chamber business of the judges of the superior courts, to take depositions, and to perform such other business connected with the administration of justice as may be prescribed by law.

(Amendment adopted November 4, 1924.)

\* See also Article XI, Section 7½, subdivision 3, page 141.

**Fees of Judicial Officers Abolished**

SEC. 15. No judicial officer, except court commissioners, shall receive to his own use any fees or perquisites of office; provided, that justices of the peace now holding office shall receive to their own use such fees as are now allowed by law during the terms for which they have been elected.

(Amendment adopted October 10, 1911.)

**Publication of Opinions of Appellate Courts**

SEC. 16. The Legislature shall provide for the speedy publication of such opinions of the Supreme Court and of the district courts of appeal as the Supreme Court may deem expedient, and all opinions shall be free for publication by any person.

(Amendment adopted November 8, 1904.)

**Compensation of Judges \***

SEC. 17. *Section repealed November 6, 1956.*

**Judge Ineligible to Other Office—Not to Practice Law**

SEC. 18. The Justices of the Supreme Court, and of the district courts of appeal and the judges of the superior courts and the municipal courts shall be ineligible to any other office or public employment than a judicial office or employment during the term for which they shall have been elected or appointed, and no justice or judge of a court of record shall practice law in or out of court during his continuance in office; provided, however, that a judge of the superior court or of a municipal court shall be eligible to election or appointment to a public office during the time for which he may be elected, and the acceptance of any other office shall be deemed to be a resignation from the office held by said judge.

(Amendment adopted November 4, 1930.)

**Comment on Evidence**

SEC. 19. The court may instruct the jury regarding the law applicable to the facts of the case, and may make such comment on the evidence and the testimony and credibility of any witness as in its opinion is necessary for the proper determination of the case. The court shall inform the jury in all cases that the jurors are the exclusive judges of all questions of fact submitted to them and of the credibility of the witnesses.

(Amendment adopted November 6, 1934. Initiative measure.)

**Style of Process**

SEC. 20. The style of all process shall be, "The People of the State of California," and all prosecutions shall be conducted in their name and by their authority.

(Constitution of 1849, Art. VI, Sec. 18, revised 1879.)

\* See last paragraph of Article VI, Section 11, page 120.

***Clerks and Reporters of Supreme and Appellate Courts***

SEC. 21. The Supreme Court shall appoint a Clerk of the Supreme Court; provided, however, that any person elected to the office of Clerk of the Supreme Court before the adoption hereof, shall continue to hold such office until the expiration of the term for which he may have been elected. Said court may also appoint a reporter and not more than three assistant reporters of the decisions of the Supreme Court and of the district courts of appeal. Each of the district courts of appeal shall appoint its own clerk. All the officers herein mentioned shall hold office and be removable at the pleasure of the courts by which they are severally appointed, and they shall receive such compensation as shall be prescribed by law, and discharge such duties as shall be prescribed by law, or by the rules or orders of the courts by which they are severally appointed.

(Amendment adopted October 10, 1911.)

***Judge Not to Practice Law***

SEC. 22. *Section repealed November 4, 1930.*

***Judge Must Be an Attorney***

SEC. 23. No person shall be eligible to the office of a Justice of the Supreme Court, or of a district court of appeal, or of a judge of a superior court, or of a municipal court, unless he shall have been admitted to practice before the Supreme Court of the State for a period of at least five years immediately preceding his election or appointment to such office; provided, however, that any elected judge or justice of an existing court who has served in that capacity by election or appointment for five consecutive years immediately preceding the effective date of this amendment shall be eligible to become the judge of a municipal court by which the existing court is superseded upon the establishment of said municipal court or at the first election of judges thereto and for any consecutive terms thereafter for which he may be re-elected. The requirement of consecutive years of judicial service shall be deemed to have been met even though interrupted by service in the armed forces of the United States during the period of war.

(Amendment adopted November 7, 1950.)

***Salary of Judge Not to Be Paid, When—Written Decisions***

SEC. 24. No Justice of the Supreme Court nor of a district court of appeal, nor any judge of a superior court nor of a municipal court shall draw or receive any monthly salary unless he shall make and subscribe an affidavit before an officer entitled to administer oaths, that no cause in his court remains pending and undetermined that has been submitted for decision for a period of 90 days. In the determination of causes all decisions of the Supreme Court and of the district courts of appeal shall be given in writing, and the grounds of the decision shall be stated.

(Amendment adopted November 4, 1924.)

**Supreme Court Commission Abolished**

**SEC. 25. Section repealed November 6, 1956.**

**Selection of Judges \***

**SEC. 26.** Within 30 days before the sixteenth day of August next preceding the expiration of his term, any Justice of the Supreme Court, justice of a district court of appeal, or judge of a superior court in any county the electors of which have adopted the provisions of this section as applicable to the judge or judges of the superior court of such county in the manner hereinafter provided, may file with the officer charged with the duty of certifying nominations for publication in the official ballot a declaration of candidacy for election to succeed himself. If he does not file such declaration the Governor must nominate a suitable person for the office before the sixteenth day of September, by filing such nomination with the officer charged with said duty of certifying nominations.

**Ballot Form**

In either event, the name of such candidate shall be placed upon the ballot for the ensuing general election in November in substantially the following form :

For \_\_\_\_\_  
(title of office)

Shall \_\_\_\_\_  
(name)

be elected to the office for the term expiring Janu-  
ary \_\_\_\_\_ ?  
(year)

Yes
No

No name shall be placed upon the ballot as a candidate for any of said judicial offices except that of a person so declaring or so nominated. If a majority of the electors voting upon such candidacy vote "yes," such person shall be elected to said office. If a majority of those voting thereon vote "no," he shall not be elected, and may not thereafter be appointed to fill any vacancy in that court, but may be nominated and elected thereto as hereinabove provided.

**Vacancies in Judicial Offices**

Whenever a vacancy shall occur in any judicial office above named, by reason of the failure of a candidate to be elected or otherwise, the Governor shall appoint a suitable person to fill the vacancy. An incumbent of any such judicial office serving a term by appointment of the

\* See also Article VI, Section 8, page 111, Section 4a, page 113, Section 6, page 117, Section 8, page 117, and Section 9, page 118.

Governor shall hold office until the first Monday after the first day of January following the general election next after his appointment, or until the qualification of any nominee who may have been elected to said office prior to that time.

***Confirmation of Nominations and Appointments—Commission on Qualifications—Retirement of Judges***

No such nomination or appointment by the Governor shall be effective unless there be filed with the Secretary of State a written confirmation of such nomination or appointment signed by a majority of the three officials herein designated as the Commission on Qualifications. The Commission on Qualifications shall consist of (1) the Chief Justice of the Supreme Court, or, if such office be vacant, the acting Chief Justice; (2) the presiding justice of the district court of appeal of the district in which a justice of a district court of appeal or a judge of a superior court is to serve, or, if there be two such presiding justices, the one who has served the longer as such; or, in the case of the nomination or appointment of a Justice of the Supreme Court, the presiding justice who has served longest as such upon any of the district courts of appeal; and (3) the Attorney General. If two or more presiding justices above designated shall have served terms of equal length, they shall choose the one who is to be a member of the Commission on Qualifications by lot, whenever occasion for action arises. The Legislature shall provide by general law for the retirement, with reasonable retirement allowance, of such justices and judges for age or disability.

***Judges—Removal From Office***

In addition to the methods of removal by the Legislature provided by Sections 17 and 18 of Article IV and by Section 10 of this article, the provisions of Article XXIII relative to the recall of elective public officers shall be applicable to justices and judges elected and appointed pursuant to the provisions of this section so far as the same relate to removal from office.

***Superior Courts***

The provisions of this section shall not apply to the judge or judges of the superior court of any county until a majority of the electors of such county voting on the question of the adoption of such provisions, in a manner to be provided for by the Legislature, shall vote in favor thereof.

***Diminishing Number of Superior Judges \****

If the Legislature diminishes the number of judges of the superior court in any county or city and county, the offices which first become vacant, to the number of judges diminished, shall be deemed to be abolished.

(New section adopted November 6, 1934. Initiative measure.)

\* See also Article VI, Section 9, page 118.

## ARTICLE VII

### Pardoning Power

#### *Pardons—Reprieves—Commutations of Sentence*

SECTION 1. The Governor shall have the power to grant reprieves, pardons, and commutations of sentence, after conviction, for all offenses except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations, as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. Upon conviction for treason, the Governor shall have power to suspend the execution of the sentence until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon, direct the execution of the sentence, or grant a further reprieve. The Governor shall communicate to the Legislature, at the beginning of every session, every case of reprieve or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence, its date, the date of the pardon or reprieve, and the reasons for granting the same. Neither the Governor nor the Legislature shall have power to grant pardons, or commutations of sentence, in any case where the convict has been twice convicted of felony, unless upon the written recommendation of a majority of the Judges of the Supreme Court.

(Constitution of 1849, Art. V, Sec. 13, revised 1879.)

## ARTICLE VIII

### Militia

#### *Legislature to Provide for Militia*

SECTION 1. The Legislature shall provide, by law, for organizing and disciplining the Militia, in such manner as it may deem expedient, not incompatible with the Constitution and laws of the United States. Officers of the Militia shall be elected or appointed in such manner as the Legislature shall from time to time direct, and shall be commissioned by the Governor. The Governor shall have power to call forth the Militia to execute the laws of the State, to suppress insurrections, and repel invasions.

(Constitution of 1849, Art. VIII, Secs. 1, 2, 3, revised 1879.)

#### *Militia to Carry Only National or State Flag*

SEC. 2. All military organizations provided for by this Constitution, or any law of this State, and receiving state support, shall, while under arms either for ceremony or duty, carry no device, banner, or flag of any state or nation, except that of the United States or the State of California.

## ARTICLE IX

### Education

#### ***Legislature to Encourage Education***

SECTION 1. A general diffusion of knowledge and intelligence being essential to the preservation of the rights and liberties of the people, the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral, and agricultural improvement.

(Constitution of 1849, Art. IX, Sec. 2, revised 1879.)

#### ***Superintendent of Public Instruction—Salary***

SEC. 2. A Superintendent of Public Instruction shall, at each gubernatorial election after the adoption of this Constitution, be elected by the qualified electors of the State. He shall receive a salary equal to that of the Secretary of State, and shall enter upon the duties of his office on the first Monday after the first day of January next succeeding his election.

(Constitution of 1849, Art. IX, Sec. 1, revised 1879.)

#### ***Deputy and Associate Superintendents of Public Instruction***

SEC. 2.1. The State Board of Education, on nomination of the Superintendent of Public Instruction, shall appoint one Deputy Superintendent of Public Instruction and three Associate Superintendents of Public Instruction who shall be exempt from state civil service and whose terms of office shall be four years.

This section shall not be construed as prohibiting the appointment, in accordance with law, of additional Associate Superintendents of Public Instruction subject to state civil service.

(New section adopted November 5, 1946.)

#### ***County Superintendents of Schools***

SEC. 3. A superintendent of schools for each county shall be elected by the qualified electors thereof at each gubernatorial election; provided, that the Legislature may authorize two or more counties to unite and elect one superintendent for the counties so uniting.

#### ***County Superintendents of Schools—Qualifications and Salaries***

SEC. 3.1. Notwithstanding any provision of this Constitution to the contrary, the Legislature shall prescribe the qualifications required of county superintendents of schools and shall fix their salaries, and for these purposes shall classify the several counties in the State.

(New section adopted November 5, 1946.)

#### ***County Boards of Education—Qualifications and Terms of Office***

SEC. 3.3. It shall be competent to provide in any charter framed for a county under any provision of this Constitution, or by the amendment of any such charter, for the election of the members of the county board

of education of such county and for their qualifications and terms of office.

(New section adopted November 5, 1946.)

#### **State School Fund**

SEC. 4. The proceeds of all lands that have been or may be granted by the United States to this State for the support of common schools which may be, or may have been, sold or disposed of, and the 500,000 acres of land granted to the new states under an act of Congress distributing the proceeds of the public lands among the several states of the Union, approved A.D. 1841, and all estates of deceased persons who may have died without leaving a will or heir, and also such percent as may be granted, or may have been granted, by Congress on the sale of lands in this State, shall be and remain a perpetual fund, the interest of which, together with all the rents of the unsold lands, and such other means as the Legislature may provide, shall be inviolably appropriated to the support of common schools throughout the State.

(Constitution of 1849, Art. IX, Sec. 2, revised 1879.)

#### **Common School System**

SEC. 5. The Legislature shall provide for a system of common schools by which a free school shall be kept up and supported in each district at least six months in every year, after the first year in which a school has been established.

(Constitution of 1849, Art. IX, Sec. 3, revised 1879.)

#### **Public Schools—Salaries of Teachers**

SEC. 6. Each person, other than a substitute employee, employed by a school district as a teacher or in any other position requiring certification qualifications shall be paid a salary which shall be at the rate of an annual salary of not less than \$2,400 for a person serving full time, as defined by law.

#### **Public School System Defined**

The Public School System shall include all kindergarten schools, elementary schools, secondary schools, technical schools, and state colleges, established in accordance with law and, in addition, the school districts and the other agencies authorized to maintain them. No school or college or any other part of the Public School System shall be, directly or indirectly, transferred from the Public School System or placed under the jurisdiction of any authority other than one included within the Public School System.

#### **Support of Public School System—State Aid**

The Legislature shall add to the State School Fund such other means from the revenues of the State as shall provide in said fund for apportionment in each fiscal year, an amount not less than one hundred and eighty dollars (\$180) per pupil in average daily attendance in the

kindergarten schools, elementary schools, secondary schools, and technical schools in the Public School System during the next preceding fiscal year.

The entire State School Fund shall be apportioned in each fiscal year in such manner as the Legislature may provide, through the school districts and other agencies maintaining such schools, for the support of, and aid to, kindergarten schools, elementary schools, secondary schools, and technical schools except that there shall be apportioned to each school district in each fiscal year not less than one hundred and twenty dollars (\$120) per pupil in average daily attendance in the district during the next preceding fiscal year and except that the amount apportioned to each school district in each fiscal year shall be not less than twenty-four hundred dollars (\$2,400).

Solely with respect to any retirement system provided for in the charter of any county or city and county pursuant to the provisions of which the contributions of, and benefits to, certificated employees of a school district who are members of such system are based upon the proportion of the salaries of such certificated employees contributed by said county or city and county, all amounts apportioned to said county or city and county, or to school districts therein, pursuant to the provisions of this section shall be considered as though derived from county or city and county school taxes for the support of county and city and county government and not money provided by the State within the meaning of this section.

#### **School District Taxes**

The Legislature shall provide for the levying annually by the governing body of each county, and city and county, of such school district taxes, at rates not in excess of the maximum rates of school district tax fixed or authorized by the Legislature, as will produce in each fiscal year such revenue for each school district as the governing board thereof shall determine is required in such fiscal year for the support of all schools and functions of said district authorized or required by law.

The provisions of this section as they read on April 1, 1952, shall remain operative to and including June 30, 1953, and no longer, notwithstanding any provision of this Constitution to the contrary.

(Amendment adopted November 4, 1952. Initiative measure.)

#### **School Districts—Bonds**

SEC. 6½. Nothing in this Constitution contained shall forbid the formation of districts for school purposes situate in more than one county \* or the issuance of bonds by such districts under such general laws as have been or may hereafter be prescribed by the Legislature; and the officers mentioned in such laws shall be authorized to levy and assess such taxes and perform all such other acts as may be prescribed therein for the purpose of paying such bonds and carrying out the other

\* See also Article IX, Section 14, page 132.

powers conferred upon such districts; provided, that all such bonds shall be issued subject to the limitations prescribed in Section 18 of Article XI hereof.

(New section adopted November 7, 1922.)

#### ***State and County Boards of Education—Free Textbooks***

SEC. 7. The Legislature shall provide for the appointment or election of a State Board of Education, and said board shall provide, compile, or cause to be compiled, and adopt, a uniform series of textbooks for use in the day and evening elementary schools throughout the State. The state board may cause such textbooks, when adopted, to be printed and published by the Superintendent of State Printing, at the State Printing Office; and wherever and however such textbooks may be printed and published, they shall be furnished and distributed by the State free of cost or any charge whatever, to all children attending the day and evening elementary schools of the State, under such conditions as the Legislature shall prescribe. The textbooks, so adopted, shall continue in use not less than four years, without any change or alteration whatsoever which will require or necessitate the furnishing of new books to such pupils, and said state board shall perform such other duties as may be prescribed by law. The Legislature shall provide for a board of education in each county in the State. The county superintendents and the county boards of education shall have control of the examination of teachers and the granting of teachers' certificates within their respective jurisdictions.

(Amendment adopted November 5, 1912.)

#### ***No Public Money for Sectarian Schools***

SEC. 8. No public money shall ever be appropriated for the support of any sectarian or denominational school, or any school not under the exclusive control of the officers of the public schools; nor shall any sectarian or denominational doctrine be taught, or instruction thereon be permitted, directly or indirectly, in any of the common schools of this State.

#### ***University of California***

SEC. 9. The University of California shall constitute a public trust, to be administered by the existing corporation known as "the Regents of the University of California," with full powers of organization and government, subject only to such legislative control as may be necessary to insure compliance with the terms of the endowments of the university and the security of its funds. Said corporation shall be in form a board composed of eight ex officio members, to wit: the Governor, the Lieutenant Governor, the Speaker of the Assembly, the Superintendent of Public Instruction, the President of the State Board of Agriculture, the President of the Mechanics Institute of San Francisco, the president of the alumni association of the university and the acting president of the university, and 16 appointive members appointed by

the Governor; provided, however, that the present appointive members shall hold office until the expiration of their present terms. The term of the appointive members shall be 16 years; the terms of two appointive members to expire as heretofore on March first of every even-numbered calendar year, and in case of any vacancy the term of office of the appointee to fill such vacancy, who shall be appointed by the Governor, to be for the balance of the term as to which such vacancy exists. Said corporation shall be vested with the legal title and the management and disposition of the property of the university and of property held for its benefit and shall have the power to take and hold, either by purchase or by donation, or gift, testamentary or otherwise, or in any other manner, without restriction, all real and personal property for the benefit of the university or incidentally to its conduct. Said corporation shall also have all the powers necessary or convenient for the effective administration of its trust, including the power to sue and to be sued, to use a seal, and to delegate to its committees or to the faculty of the university, or to others, such authority or functions as it may deem wise; provided, that all moneys derived from the sale of public lands donated to this State by act of Congress approved July 2, 1862 (and the several acts amendatory thereof), shall be invested as provided by said acts of Congress and the income from said moneys shall be inviolably appropriated to the endowment, support and maintenance of at least one college of agriculture, where the leading objects shall be (without excluding other scientific and classical studies, and including military tactics) to teach such branches of learning as are related to scientific and practical agriculture and mechanic arts, in accordance with the requirements and conditions of said acts of Congress; and the Legislature shall provide that if, through neglect, misappropriation, or any other contingency, any portion of the funds so set apart shall be diminished or lost, the State shall replace such portion so lost or misappropriated, so that the principal thereof shall remain forever undiminished. The university shall be entirely independent of all political or sectarian influence and kept free therefrom in the appointment of its regents and in the administration of its affairs, and no person shall be debarred admission to any department of the university on account of sex.

(Amendment adopted November 5, 1918.)

#### *Leland Stanford Junior University*

SEC. 10. The trusts and estates created for the founding, endowment and maintenance of the Leland Stanford Junior University, under and in accordance with "An act to advance learning, etc.," approved March 9, 1885, by the endowment grant executed by Leland Stanford and Jane Lathrop Stanford on the eleventh day of November, A.D. 1885, and recorded in liber 83 of deeds, at page 23, et seq., records of Santa Clara County, and by the amendments of such grant, and by gifts, grants, bequests, and devises supplementary thereto, and by confirmatory grants, are permitted, approved and confirmed. The Board

of Trustees of the Leland Stanford Junior University, as such, or in the name of the institution, or by other intelligible designation of the trustees or of the institution, may receive property, real or personal, and wherever situated, by gift, grant, devise, or bequest for the benefit of the institution, or of any department thereof, and such property, unless otherwise provided, shall be held by the Trustees of the Leland Stanford Junior University upon the trusts provided for in the grant founding the university, and amendments thereto, and grants, bequests and devises supplementary thereto. The Legislature, by special act, may grant to the Trustees of the Leland Stanford Junior University corporate powers and privileges, but it shall not thereby alter their tenure, or limit their powers or obligations as trustees. All property now or hereafter held in trust for the founding, maintenance or benefit of the Leland Stanford Junior University, or of any department thereof, may be exempted by special act from state taxation, and all personal property so held, the Palo Alto farm as described in the endowment grant to the trustees of the university, and all other real property so held and used by the university for educational purposes exclusively, may be similarly exempted from county and municipal taxation; provided, that residents of California shall be charged no fees for tuition unless such fees be authorized by act of the Legislature.

(New section adopted November 6, 1900.)

#### *California School of Mechanical Arts*

SEC. 11. All property now or hereafter belonging to "the California School of Mechanical Arts," an institution founded and endowed by the late James Lick to educate males and females in the practical arts of life, and incorporated under the laws of the State of California, November 23, 1885, having its school buildings located in the City and County of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given.

(New section adopted November 6, 1900.)

#### *California Academy of Sciences*

SEC. 12. All property now or hereafter belonging to the "California Academy of Sciences," an institution for the advancement of science and maintenance of a free museum, and chiefly endowed by the late James Lick, and incorporated under the laws of the State of California, January 16, 1871, having its buildings located in the City and County of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given.

(New section adopted November 8, 1904.)

**Cogswell Polytechnical College**

SEC. 13. All property now or hereafter belonging to the Cogswell Polytechnical College, an institution for the advancement of learning, incorporated under the laws of the State of California, and having its buildings located in the City and County of San Francisco, shall be exempt from taxation. The trustees of said institution must annually report their proceedings and financial accounts to the Governor. The Legislature may modify, suspend, and revive at will the exemption from taxation herein given.

(New section adopted November 6, 1906.)

**School Districts**

SEC. 14. The Legislature shall have power, by general law, to provide for the incorporation and organization of school districts, high school districts, and junior college districts, of every kind and class, and may classify such districts.\*

(New section adopted November 2, 1926.)

**Henry E. Huntington Library and Art Gallery**

SEC. 15. The trusts and estates created for the founding, endowment and maintenance of the Henry E. Huntington Library and Art Gallery, under and in accordance with an act of the Legislature approved March 10, 1885, Chapter 47 of the Statutes of California of 1885, by the endowment grant executed by Henry E. Huntington and Arabella D. Huntington on the thirtieth day of August, 1919, and recorded in Book 6937, page 97 of deeds, records of Los Angeles, California, on the fifteenth day of September, 1919, and by the amendments of such grant and by gifts and grants supplementary thereto and by confirmatory grants, are permitted, approved and confirmed. The Board of Trustees of the Henry E. Huntington Library and Art Gallery, as such, or in the name of the institution, or by other intelligible designation of the trustees, or of the institution, may receive property, real or personal, and wherever situated, by gift, grant, devise, or bequest, for the benefit of the institution, and such property, unless otherwise provided, shall be held by the Trustees of the Henry E. Huntington Library and Art Gallery upon the trusts provided for in the grant founding the institution, and amendments thereof and grants supplementary thereto. All property as of July 1, 1929, held in trust for the founding, maintenance or benefit of the Henry E. Huntington Library and Art Gallery and the increments thereof and all personal property received in exchange therefor shall be exempt from taxation. The Legislature may modify, suspend and revive at will the exemption from taxation herein given. The trustees of said institution shall annually report their proceedings to the person who for the time being shall fill the office of Secretary of State of the State of California, and said trustees

\* See also Article IX, Section 6½, page 128.

shall accompany said report with a full account of their financial operations for the preceding year and with a statement of the financial affairs of the institution.

(New section adopted November 4, 1930.)

## ARTICLE X

### State Institutions and Public Buildings

#### *State Board of Prison Directors Created*

SECTION 1. There shall be a State Board of Prison Directors, to consist of five persons, to be appointed by the Governor, with the advice and consent of the Senate, who shall hold office for 10 years, except that the first appointed shall, in such manner as the Legislature may direct, be so classified that the term of one person so appointed shall expire at the end of each two years during the first 10 years, and vacancies occurring shall be filled in like manner. The appointee to a vacancy, occurring before the expiration of a term, shall hold [office] only for the unexpired term of his predecessor. The Governor shall have the power to remove either of the directors for misconduct, incompetency, or neglect of duty, after an opportunity to be heard upon written charges.

#### *Powers and Duties of Prison Directors*

SEC. 2. The Board of Directors shall have the charge and superintendence of the state prisons, and shall possess such powers, and perform such duties, in respect to other penal and reformatory institutions of the State, as the Legislature may prescribe.

#### *Appointment and Removal of Officers and Employees*

SEC. 3. The board shall appoint the warden and clerk, and determine the other necessary officers of the prisons. The board shall have power to remove the wardens and clerks for misconduct, incompetency, or neglect of duty. All other officers and employees of the prisons shall be appointed by the warden thereof, and be removed at his pleasure.

#### *Prison Directors Receive No Compensation*

SEC. 4. The members of the board shall receive no compensation other than reasonable traveling and other expenses incurred while engaged in the performance of official duties, to be audited as the Legislature may direct.

#### *Legislature to Prescribe Powers and Duties of Prison Officials*

SEC. 5. The Legislature shall pass such laws as may be necessary to further define and regulate the powers and duties of the board, wardens, and clerks, and to carry into effect the provisions of this article.

***Convict Labor***

SEC. 6. After the first day of January, 1882, the labor of convicts shall not be let out by contract to any person, copartnership, company, or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.

***Supervision of State Penal Institutions***

SEC. 7. Notwithstanding anything contained elsewhere in this Constitution, the Legislature may provide for the establishment, government, charge and superintendence of all institutions for all persons convicted of felonies. For this purpose, the Legislature may delegate the government, charge and superintendence of such institutions to any public governmental agency or agencies, officers, or board or boards, whether now existing or hereafter created by it. Any of such agencies, officers, or boards shall have such powers, perform such duties and exercise such functions in respect to other reformatory or penal matters, as the Legislature may prescribe.

The Legislature may also provide for punishment, treatment, supervision, custody and care of females in a manner and under circumstances different from men similarly convicted.

All existing statutes and constitutional provisions purporting to create such institutions or such agencies or officers or boards, to so delegate such government, charge and superintendence, to so prescribe such powers, duties, or functions, or to so provide for such punishment, treatment or supervision are hereby ratified, validated and declared to be legally effective until the Legislature provides otherwise.

(Amendment adopted November 5, 1940.)

## ARTICLE XI

### Cities, Counties, and Towns

***Existing Counties Recognized***

SECTION 1. The several counties, as they now exist, are hereby recognized as legal subdivisions of this State.

***Removal of County Seat***

SEC. 2. No county seat shall be removed unless two-thirds of the qualified electors of the county, voting on the proposition at a general election, shall vote in favor of such removal. A proposition of removal shall not be submitted in the same county more than once in four years.

***Formation of New Counties—Boundaries***

SEC. 3. The Legislature, by general and uniform laws, may provide for the alteration of county boundary lines, and for the formation of new counties; provided, however, that no new county shall be established which shall reduce any county to a population of less than 20,000;

nor shall a new county be formed containing a less population than 8,000; nor shall any line thereof pass within five miles of the exterior boundary of the city or town in which the county seat of any county proposed to be divided is situated. Every county which shall be enlarged or created from territory taken from any other county or counties, shall be liable for a just proportion of the existing debts and liabilities of the county or counties from which such territory shall be taken.

(Amendment adopted November 8, 1910.)

#### ***County Governments and Township Organization***

**SEC. 4. Section repealed June 27, 1933.**

#### ***County Officers—Appointment or Election—Duties—Compensation—Jurors***

**SEC. 5.** The Legislature, by general and uniform laws, shall provide for the election or appointment, in the several counties, of boards of supervisors, sheriffs, county clerks, district attorneys, and such other county, township, and municipal officers as public convenience may require, and shall prescribe their duties and fix their terms of office. It shall regulate the compensation of boards of supervisors, district attorneys and of auditors in the respective counties and for this purpose may classify the counties by population. It may regulate the compensation of grand and trial jurors in all courts within the classes of counties herein permitted to be made. The boards of supervisors in the respective counties shall regulate the compensation of all officers in said counties other than boards of supervisors, district attorneys, auditors, and judges of municipal courts, and shall regulate the number, method of appointment, terms of office or employment, and compensation of all deputies, assistants, and employees of the counties.

#### ***Validation of 1933 Statutes (Chapter 643, Page 1674)***

The provisions of this section shall not be construed to abridge, modify or otherwise affect the provisions of Sections 7½, 7½a and 8½ of this article, relating to county or city and county charters. That certain act entitled "An act to add a new section to the Political Code to be numbered 4056d, relating to powers and duties of boards of supervisors with respect to county and township officers, deputies, assistants and employees," as enacted by the Legislature at its Fiftieth Session, is hereby validated and made fully and completely effective.

#### ***County, Township, or Municipal Officers—Increases in Compensation***

The compensation of any county, township or municipal officer shall not be increased after his election or during his term of office, nor shall the term of any such officer be extended beyond the period for which he was elected or appointed.

The Legislature by a two-thirds vote of the members of each house may suspend the provision hereof prohibiting the increase of compensation of any county, township or municipal officer after his election or

during his term of office for any period during which the United States is engaged in war and for one year after the termination of hostilities therein as proclaimed by the President of the United States.

The provisions of this section shall not prevent the allowance of any new or additional deputy or assistant to the principal in any county office during his term, nor shall they prevent any increase in the compensation of any deputy or assistant to such principal at any time.

#### ***County Officers—Qualifications***

The provisions of this section shall not abridge, modify or otherwise limit the power of the Legislature by general and uniform laws to prescribe the qualifications of any county officer or of any deputy or assistant, or to prescribe the method of appointment of any person so qualified.

(Amendment adopted November 7, 1944.)

#### ***Municipal Corporations Formed Under General Laws***

SEC. 6. Corporations for municipal purposes shall not be created by special laws; but the Legislature shall, by general laws, provide for the incorporation, organization, and classification, in proportion to population, of cities and towns, which laws may be altered, amended, or repealed; and the Legislature may, by general laws, provide for the performance by county officers of certain of the municipal functions of cities and towns so incorporated, whenever a majority of the electors of any such city or town voting at a general or special election shall so determine. Cities and towns heretofore organized or incorporated may become organized under the general laws passed for that purpose, whenever a majority of the electors voting at a general election shall so determine, and shall organize in conformity therewith. Cities and towns hereafter organized under charters framed and adopted by authority of this Constitution are hereby empowered, and cities and towns heretofore organized by authority of this Constitution may amend their charters in the manner authorized by this Constitution so as to become likewise empowered hereunder, to make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters, and in respect to other matters they shall be subject to and controlled by general laws. Cities and towns heretofore or hereafter organized by authority of this Constitution may, by charter provision or amendment, provide for the performance by county officers of certain of their municipal functions, whenever the discharge of such municipal functions by county officers is authorized by general laws or by the provisions of a county charter framed and adopted by authority of this Constitution.

(Amendment adopted November 3, 1914.)

#### ***Consolidation of City and County Governments***

SEC. 7. City and county governments may be merged and consolidated into one municipal government, with one set of officers, and may

be incorporated under general laws providing for the incorporation and organization of corporations for municipal purposes. The provisions of this Constitution applicable to cities, and also those applicable to counties, so far as not inconsistent or prohibited to cities, shall be applicable to such consolidated government.

(Amendment adopted November 6, 1894.)

**County Charters—Board of Freeholders—Ratification of Charter**

SEC. 7½. Any county may frame a charter for its own government consistent with and subject to the Constitution (or, having framed such a charter, may frame a new one,) and relating to matters authorized by provisions of the Constitution, by causing a board of 15 freeholders, who have been for at least five years qualified electors thereof, to be elected by the qualified electors of said county, at a general or special election. Said board of freeholders may be so elected in pursuance of an ordinance adopted by the vote of three-fifths of all the members of the board of supervisors of such county, declaring that the public interest requires the election of such board for the purpose of preparing and proposing a charter for said county, or in pursuance of a petition of qualified electors of said county as hereinafter provided. Such petition, signed by 15 per centum of the qualified electors of said county, computed upon the total number of votes cast therein for all candidates for Governor at the last preceding general election at which a Governor was elected, praying for the election of a board of 15 freeholders to prepare and propose a charter for said county, may be filed in the office of the county clerk. It shall be the duty of said county clerk, within 20 days after the filing of said petition, to examine the same, and to ascertain from the record of the registration of electors of the county, whether said petition is signed by the requisite number of qualified electors. If required by said clerk, the board of supervisors shall authorize him to employ persons specially to assist him in the work of examining such petition, and shall provide for their compensation. Upon the completion of such examination, said clerk shall forthwith attach to said petition his certificate, properly dated, showing the result thereof, and if, by said certificate, it shall appear that said petition is signed by the requisite number of qualified electors, said clerk shall immediately present said petition to the board of supervisors, if it be in session, otherwise at its next regular meeting after the date of such certificate. Upon the adoption of such ordinance, or the presentation of such petition, said board of supervisors shall order the holding of a special election for the purpose of electing such board of freeholders, which said special election shall be held not less than 20 days nor more than 60 days after the adoption of the ordinance aforesaid or the presentation of said petition to said board of supervisors; provided, that if a general election shall occur in said county not less than 20 days nor more than 60 days after the adoption of the ordinance aforesaid, or such presentation of said petition to said board of supervisors, said board of freeholders may be elected at such general election.

Candidates for election as members of said board of freeholders shall be nominated substantially in the same manner as may be provided by general law for the nomination of candidates for county offices. It shall be the duty of said board of freeholders, within one year after the result of such election shall have been declared by said board of supervisors, to prepare and propose a charter for said county, which shall be signed in duplicate by the members of said board of freeholders, or a majority of them, and be filed, one copy in the office of the county clerk of said county and the other in the office of the county recorder thereof. Said board of supervisors shall thereupon cause said proposed charter to be published for at least 10 times in a daily newspaper of general circulation, printed, published and circulated in said county; provided, that in any county where no such daily newspaper is printed, published and circulated, such proposed charter shall be published for at least three times in at least one weekly newspaper, of general circulation, printed, published and circulated in such county; and provided, that in any county where neither such daily nor such weekly newspaper is printed, published and circulated, a copy of such proposed charter shall be posted by the county clerk in three public places in said county, and on or near the entrance to at least one public school-house in each school district in said county, and the first publication or the posting of such proposed charter shall be made within 15 days after the filing of a copy thereof, as aforesaid, in the office of the county clerk. Said proposed charter shall be submitted by said board of supervisors to the qualified electors of said county at a special election held not less than 30 days nor more than 60 days after the completion of such publication, or after such posting; provided, that if a general election shall occur in said county not less than 30 days nor more than 60 days after the completion of such publication, or after such posting, then such proposed charter may be so submitted at such general election. If a majority of said qualified electors, voting thereon at such general or special election, shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be forthwith submitted to the Legislature, if it be in regular session, otherwise at its next regular session, or it may be submitted to the Legislature in extraordinary session, for its approval or rejection as a whole, without power of alteration or amendment. Such approval may be made by concurrent resolution, and if approved by the majority vote of the members elected to each house, such charter shall become the charter of such county and shall become the organic law thereof relative to the matters therein provided, and supersede any existing charter framed under the provisions of this section, and all amendments thereof, and shall supersede all laws inconsistent with such charter relative to the matters provided in such charter. A copy of such charter, certified and authenticated by the chairman and clerk of the board of supervisors under the seal of said board and attested by the county clerk of said county, setting forth the submission of such charter to the electors of said county, and its ratification by them, shall, after the approval of such charter

by the Legislature, be made in duplicate, and filed, one in the Office of the Secretary of State and the other, after being recorded in the office of the recorder of said county, shall be filed in the office of the county clerk thereof, and thereafter all courts shall take judicial notice of said charter.

#### ***Amendment of Charter***

The charter, so ratified, may be amended by proposals therefor submitted by the board of supervisors of the county to the qualified electors thereof at a general or special election held not less than 30 days nor more than 60 days after the publication of such proposals for 10 times in a daily newspaper of general circulation, printed, published and circulated in said county; provided, that in any county where no such daily newspaper is printed, published and circulated, such proposed charter shall be published for at least three times in at least one weekly newspaper, of general circulation, printed, published and circulated in such county; provided, that in any county where neither such daily nor such weekly newspaper is printed, published and circulated, a copy of such proposed charter shall be posted by the county clerk in three public places in said county, and on or near the entrance to at least one public schoolhouse in each school district in said county. If a majority of such qualified electors voting thereon, at such general or special election, shall vote in favor of any such proposed amendment or amendments, or any amendment or amendments proposed by petition as hereinafter provided, such amendment or amendments shall be deemed to be ratified, and shall be forthwith submitted to the Legislature, if it be in regular session, otherwise at its next regular session, or may be submitted to the Legislature in extraordinary session, for approval or rejection as a whole, without power of alteration or amendment, and if approved by the Legislature, as herein provided for the approval of the charter, such charter shall be amended accordingly. A copy of such amendment or amendments shall, after the approval thereof by the Legislature, be made in duplicate, and shall be authenticated, certified, recorded and filed as herein provided for the charter, and with like force and effect. Whenever a petition signed by 10 per centum of the qualified electors of any county, computed upon the total number of votes cast in said county for all candidates for Governor at the last general election, at which a Governor was elected, is filed in the office of the county clerk of said county, petitioning the board of supervisors thereof to submit any proposed amendment or amendments to the charter of such county, which amendment or amendments shall be set forth in full in such petition, to the qualified electors thereof, such petition shall forthwith be examined and certified by the county clerk, and if signed by the requisite number of qualified electors of such county, shall be presented to the said board of supervisors, by the said county clerk, as hereinbefore provided for petitions for the election of boards of free-holders. Upon the presentation of said petition to said board of super-

visors, said board must submit the amendment or amendments set forth therein to the qualified electors of said county at a general or special election held not less than 30 days nor more than 60 days after the publication or posting of such proposed amendment or amendments in the same manner as hereinbefore provided in the case of the submission of any proposed amendment or amendments to such charter, proposed and submitted by the board of supervisors. In submitting any such charter, or amendments thereto, any alternative article or proposition may be presented for the choice of the electors, and may be voted on separately without prejudice to others.

#### *Special Elections*

Every special election held under the provisions of this section, for the election of boards of freeholders or for the submission of proposed charters, or any amendment or amendments thereto, shall be called by the board of supervisors, by ordinance, which shall specify the purpose and time of such election and shall establish the election precincts and designate the polling places therein, and the names of the election officers for each such precinct. Such ordinance, prior to such election, shall be published five times in a daily newspaper, or twice in a weekly newspaper, if there be no such daily newspaper, printed, published and circulated in said county; provided, that if no such daily or weekly newspaper be printed or published in such county, then a copy of such ordinance shall be posted by the county clerk in three public places in such county and in or near the entrance to at least one public schoolhouse in each school district therein. In all other respects, every such election shall be held and conducted, the returns thereof canvassed and the result thereof declared by the board of supervisors in the same manner as provided by law for general elections. Whenever boards of freeholders shall be elected, or any such proposed charter, or amendment or amendments thereto, submitted, at a general election, the general laws applicable to the election of county officers and the submission of propositions to the vote of electors, shall be followed insofar as the same may be applicable thereto.

#### *Required Provisions of Charter*

It shall be competent, in all charters, framed under the authority given by this section to provide, in addition to any other provisions allowable by this Constitution, and the same shall provide, for the following matters:

#### *Supervisors*

1. For boards of supervisors and for the constitution, regulation and government thereof, for the times at which and the terms for which the members of said board shall be elected, for the number of members, not less than three, that shall constitute such boards, for their compensation and for their election, either by the electors of the counties at large or

by districts; provided, that in any event said board shall consist of one member for each district, who must be a qualified elector thereof; and

#### **Other Officers**

2. For sheriffs, county clerks, treasurers, recorders, license collectors, tax collectors, public administrators, coroners, surveyors, district attorneys, auditors, assessors and superintendents of schools, for the election or appointment of said officers, or any of them, for the times at which and the terms for which, said officers shall be elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors, and, if appointed, for the manner of their appointment; and

#### **Court Officers**

3.\* For the number of justices of the peace and constables for each township, or for the number of such judges and other officers of such inferior courts as may be provided by the Constitution or general law, for the election or appointment of said officers, for the times at which and the terms for which said officers shall be elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors, and if appointed, for the manner of their appointment; and

#### **County Officers—Powers—Removal—Vacancies**

4. For the powers and duties of boards of supervisors and all other county officers, for their removal and for the consolidation and segregation of county offices, and for the manner of filling all vacancies occurring therein; provided, that the provisions of such charters relating to the powers and duties of boards of supervisors and all other county officers shall be subject to and controlled by general laws; and

4 $\frac{1}{2}$ . For the assumption and discharge by county officers of certain of the municipal functions of the cities and towns within the county, whenever, in the case of cities and towns incorporated under general laws, the discharge by county officers of such municipal functions is authorized by general law, or whenever, in the case of cities and towns organized under Section 8 of this article, the discharge by county officers of such municipal functions is authorized by provisions of the charters, or by amendments thereto, of such cities or towns.

#### **County Employees**

5. For the fixing and regulation by boards of supervisors, by ordinance, of the appointment and number of assistants, deputies, clerks, attaches and other persons to be employed, from time to time, in the several offices of the county, and for the prescribing and regulating by such boards of the powers, duties, qualifications and compensation of

\* See also Article VI, Section 11, page 119, and Section 12, page 120.

such persons, the times at which, and terms for which they shall be appointed, and the manner of their appointment and removal; and

6. For the compensation of such fish and game wardens, probation and other officers as may be provided by general law, or for the fixing of such compensation by boards of supervisors.

#### **Elections**

All elective officers of counties, and of townships, of road districts and of highway construction divisions therein shall be nominated and elected in the manner provided by general laws for the nomination and election of such officers.

#### **County Charters—Optional Provisions**

All charters framed under the authority given by this section, in addition to the matters hereinabove specified, may provide as follows:

For offices other than those required by the Constitution and laws of the State, or for the creation of any or all of such offices by boards of supervisors, for the election or appointment of persons to fill such offices, for the manner of such appointment, for the times at which and the terms for which such persons shall be so elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors.

For offices hereafter created by this Constitution or by general law, for the election or appointment of persons to fill such offices, for the manner of such appointment, for the times at which and the terms for which such persons shall be so elected or appointed, and for their compensation, or for the fixing of such compensation by boards of supervisors.

#### **Roads**

For the formation, in such counties, of road districts for the care, maintenance, repair, inspection and supervision only of roads, highways and bridges; and for the formation, in such counties, of highway construction divisions for the construction only of roads, highways and bridges; for the inclusion in any such district or division, of the whole or any part of any incorporated city or town, upon ordinance passed by such incorporated city or town authorizing the same, and upon the assent to such inclusion by a majority of the qualified electors of such incorporated city or town, or portion thereof, proposed to be so included, at an election held for that purpose; for the organization, government, powers and jurisdiction of such districts and divisions, and for raising revenue therein, for such purposes, by taxation, upon the assent of a majority of the qualified electors of such districts or divisions, voting at an election to be held for that purpose; for the incurring of indebtedness therefor by such counties, districts or divisions for such purposes respectively, by the issuance and sale, by the counties, of bonds of such counties, districts or divisions, and the expenditure of the pro-

ceeds of the sale of such bonds, and for levying and collecting taxes against the property of the counties, districts or divisions, as the case may be, for the payment of the principal and interest of such indebtedness at maturity; provided, that any such indebtedness shall not be incurred without the assent of two-thirds of the qualified electors of the county, district or division, as the case may be, voting at an election to be held for that purpose, nor unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also for a sinking fund for the payment of the principal thereof on or before maturity, which shall not exceed 40 years from the time of contracting the same, and the procedure for voting, issuing and selling such bonds shall, except insofar as the same shall be prescribed in such charters, conform to general laws for the authorizing and incurring by counties of bonded indebtedness, so far as applicable; provided, further, that provisions in such charters for the construction, care, maintenance, repair, inspection and supervision of roads, highways and bridges for which aid from the State is granted, shall be subject to such regulations and conditions as may be imposed by the Legislature.

#### *Effect of Adoption of Charter*

Whenever any county has framed and adopted a charter, and the same shall have been approved by the Legislature, as herein provided, the general laws adopted by the Legislature in pursuance of Sections 4 and 5 of this article, shall, as to such county, be superseded by said charter as to matters for which, under this section it is competent to make provision in such charter, and for which provision is made therein, except as herein otherwise expressly provided; and except that any such charter shall not affect the tenure of office of the elective officers of the county, or of any district, township or division thereof, in office at the time such charter goes into effect, and such officers shall continue to hold their respective offices until the expiration of the term for which they shall have been elected, unless sooner removed in the manner provided by law.

#### *Surrender of Charter*

The charter of any county, adopted under the authority of this section, may be surrendered and annulled with the assent of two-thirds of the qualified electors of such county, voting at a special election, held for that purpose, and to be ordered and called by the board of supervisors of the county upon receiving a written petition, signed and certified as hereinabove provided for the purposes of the adoption of charters, requesting said board to submit the question of the surrender and annulment of such charter to the qualified electors of such county, and, in the event of the surrender and annulment of any such charter,

such county shall thereafter be governed under general laws in force for the government of counties.

The provisions of this section shall not be applicable to any county that is consolidated with any city.

(Amendment adopted November 6, 1956.)

**Consolidated City and County Charters—Alameda County Enabling Amendment**

**SEC. 7½a. Section repealed November 8, 1949.**

**Annexation of Municipality**

**SEC. 7½b.** No incorporated city or town shall ever be transferred or annexed to, or consolidated with, any other municipality, or consolidated city and county, without the consent of a majority of the voters of such incorporated city or town voting at an election called for that purpose.

(New section adopted November 7, 1922.)

**City Charters—Election of Freeholders**

**SEC. 8.** (a) Any city or city and county containing a population of more than 3,500 inhabitants, as ascertained by the last preceding census taken under the authority of the Congress of the United States or of the Legislature of California, may frame a charter for its own government, consistent with and subject to this Constitution; and any city or city and county having adopted a charter may adopt a new one. Any such charter may be framed by a board of 15 freeholders chosen by the electors of such city or city and county, at any general or special election, but no person shall be eligible as a candidate for such board unless he shall have been, for the five years next preceding, an elector of said city or city and county. An election for choosing freeholders may be called by a two-thirds vote of the legislative body of such city or city and county, and on presentation of a petition signed by not less than 15 percent of the registered electors of such city or city and county, the legislative body shall call such election at any time not less than 30 nor more than 60 days from date of the filing of the petition. Any such petition shall be verified by the authority having charge of the registration records of such city or city and county and the expenses of such verification shall be provided by the legislative body thereof.

**Nominations**

(b) Candidates for the office of freeholders shall be nominated either in such manner as may be provided for the nomination of officers of the municipal or city and county government or by petition, substantially in the same manner as may be provided by general laws for the nomination by petition of electors of candidates for public offices to be voted for at general elections.

***Vote on Drafting—Board of Freeholders***

(c) At such election the electors shall vote first on the question "Shall a board of freeholders be elected to frame a proposed new charter?" and secondly for the candidates of the office of freeholder. If the first question receives a majority of votes of the qualified voters voting thereon at such election, the 15 candidates for the office of freeholder receiving the highest number of votes shall forthwith organize as a board of freeholders, but if the first question receives less than a majority of the votes of the qualified voters voting thereon at such election no board of freeholders shall be deemed to have been elected.

***Preparation of Charter***

(d) The board of freeholders shall, within one year after the result of the election is declared, prepare and propose a charter for the government of such city or city and county. The charter so prepared shall be signed by a majority of the board of freeholders and filed in the office of the clerk of the legislative body of said city or city and county. The legislative body of said city or city and county shall, within 15 days after such filing, cause such charter to be published once in the official newspaper of said city or city and county and each edition thereof, during the day of publication (or in case there be no such official newspaper, in a newspaper of general circulation within such city or city and county and all the editions thereof issued during the day of publication) and in any city or city and county with over 50,000 population shall cause copies of such charter to be printed in convenient pamphlet form and in type of not less than 10-point and shall cause copies thereof to be mailed to each of the qualified electors of such city or city and county, and shall, until the day fixed for the election upon such charter, advertise in one or more newspapers of general circulation in said city or city and county a notice that copies thereof may be had upon application therefor.

***Submission of Charter to Vote of Electors***

(e) Such charter shall be submitted to the electors of such city or city and county at a date to be fixed by the board of freeholders, before such filing and designated on such charter, either at a special election held not less than 60 days from the completion of the publication of such charter as above provided, or at the general election next following the expiration of said 60 days.

***Council Proposal***

(f) As an alternative, the legislative body of any such city or city and county, on its own motion may frame or cause to be framed, a proposed charter and submit the proposal for the adoption thereof to the electors at either a special election called for that purpose or at any general or special election. Any charter so submitted shall be advertised

in the same manner as herein provided for the advertisement of a charter proposed by a board of freeholders, and the election thereon held at a date to be fixed by the legislative body of such city or city and county, not less than 40 nor more than 60 days after the completion of the advertising in the official paper.

#### ***Adoption of Charter—Legislative Approval***

(g) If a majority of the qualified voters voting thereon at such general or special election shall vote in favor of such proposed charter, it shall be deemed to be ratified, and shall be submitted to the Legislature, if then in session, or at the next regular or special session of the Legislature. The Legislature shall by concurrent resolution approve or reject such charter as a whole, without power of alteration or amendment; and if approved by a majority of the members elected to each house it shall become the organic law of such city or city and county and supersede any existing charter and all laws inconsistent therewith. One copy of the charter so ratified and approved shall be filed with the Secretary of State, one with the recorder in the county in which such city is located, and one in the archives of the city, and in the case of a city and county one copy shall be filed with the recorder thereof, and one in the archives of such city and county; and thereafter the courts shall take judicial notice of the provisions of such charter.

#### ***Amendment of Charter***

(h) The charter of any city or city and county may be amended by proposals therefor submitted by the legislative body thereof on its own motion or on petition signed by 15 percent of the registered electors, or both. Such proposals shall be submitted to the electors at either a special election called for that purpose or at any general or special election. Petitions for the submission of any amendment shall be filed with the legislative body of the city or city and county not less than 60 days prior to the general election next preceding a regular session of the Legislature. The signatures on such petitions shall be verified by the authority having charge of the registration records of such city or city and county, and the expenses of such verification shall be provided by the legislative body thereof. If such petitions have a sufficient number of signatures the legislative body of the city or city and county shall so submit the amendment or amendments so proposed to the electors. Amendments proposed by the legislative body and amendments proposed by petition of the electors may be submitted at the same election. The amendments so submitted shall be advertised in the same manner as herein provided for the advertisement of a proposed charter, and the election thereon, held at a date to be fixed by the legislative body of such city or city and county, not less than 40, and not more than 60, days after the completion of the advertising in the official paper.

***Legislative Approval of Charter Amendments***

(i) If a majority of the qualified voters voting on any such amendment vote in favor thereof, it shall be deemed ratified, and shall be submitted to the Legislature if then in session, or at the regular or special session next following such election; and approved or rejected without power of alteration in the same manner as herein provided for the approval or rejection of a charter.

***Conflicts—Municipal Affairs—Boroughs***

(j) In submitting any such charter or amendment separate propositions, whether alternative or conflicting, or one included within the other, may be submitted at the same time to be voted on by the electors separately, and, as between those so related, if more than one receive a majority of the votes, the proposition receiving the largest number of votes shall control as to all matters in conflict. It shall be competent in any charter framed under the authority of this section to provide that the municipality governed thereunder may make and enforce all laws and regulations in respect to municipal affairs, subject only to the restrictions and limitations provided in their several charters and in respect to other matters they shall be subject to general laws. It shall be competent in any charter to provide for the establishment of a borough system of government for the whole or any part of the territory of the city or city and county governed thereby, by which one or more boroughs or districts may be created therein and to provide that each borough or district may exercise such general or special municipal powers, and to be administered in such manner, as may be provided for such boroughs and districts in the charter of the city or city and county.

***Percentages of Registered Electors for Election of Freeholders or Submission of Charter Amendments***

(k) The percentages of the registered electors herein required for the election of freeholders or the submission of amendments to charters shall be calculated upon the total vote cast in the city or city and county at the last preceding general state election; and the qualified electors shall be those whose names appear upon the registration records of the same or preceding year. The election laws of such city, or city and county shall, so far as applicable, govern all elections held under the authority of this section.

(Amendment adopted November 4, 1952.)

***San Francisco Charter—Authorizing Amendment to Aid Panama-Pacific International Exposition***

SEC. 8a. *Section repealed November 8, 1949.*

***City Charters, What May Contain***

SEC. 8½. It shall be competent, in all charters framed under the authority given by Section 8 of this article, to provide, in addition to those provisions allowable by this Constitution, and by the laws of the State as follows:

1.\* For the constitution, regulation, government, and jurisdiction of police courts, and for the manner in which, the times at which, and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; and for the establishment, constitution, regulation, government and jurisdiction of municipal courts and judges thereof, with such civil, criminal and magisterial jurisdiction as by law may be conferred upon inferior courts and judges thereof; and for the manner in which, the times at which and the terms for which the judges of such courts shall be elected or appointed, and for the qualifications and compensation of said judges and of their clerks and attaches; provided, such municipal courts shall never be deprived of the jurisdiction given inferior courts created by general law.

In any city or any city and county, when such municipal court has been established, there shall be no other court inferior to the superior court; and pending actions, trials, and all pending business of inferior courts within the territory of such city or city and county, upon the establishment of any such municipal court, shall be and become pending in such municipal court, and all records of such inferior courts shall thereupon be and become the records of such municipal court.

***Boards of Education***

2. For the manner in which, the times at which, and the terms for which the members of boards of education shall be elected or appointed, for their qualifications, compensation and removal, and for the number which shall constitute any one of such boards.

***Police***

3. For the manner in which, the times at which and the terms for which the members of the boards of police commissioners shall be elected or appointed; and for the constitution, regulation, compensation, and government of such boards and of the municipal police force.

***City Elections***

4. For the manner in which and the times at which any municipal election shall be held and the result thereof determined; for the manner in which, the times at which, and the terms for which the members of all boards of election shall be elected or appointed, and for the constitution, regulation, compensation and government of such boards, and of their clerks and attaches, and for all expenses incident to the holding of any election.

\* See also Article VI, Section 11, page 119.

**Personnel**

It shall be competent in any charter framed in accordance with the provisions of this section, or Section 8 of this article, for any city or consolidated city and county, and plenary authority is hereby granted, subject only to the restrictions of this article, to provide therein or by amendment thereto, the manner in which, the method by which, the times at which, and the terms for which the several county and municipal officers and employees whose compensation is paid by such city or city and county, excepting judges of the superior court, shall be elected or appointed, and for their recall and removal, and for their compensation, and for the number of deputies, clerks and other employees that each shall have, and for the compensation, method of appointment, qualifications, tenure of office and removal of such deputies, clerks and other employees. All provisions of any charter of any such city or consolidated city and county, heretofore adopted, and amendments thereto, which are in accordance herewith, are hereby confirmed and declared valid.

**"Cities and Counties"—Formation**

5. It shall be competent in any charter or amendment thereof, which shall hereafter be framed under the authority given by Section 8 of this article, by any city having a population in excess of 50,000 ascertained as prescribed by said Section 8, to provide for the separation of said city from the county of which it has theretofore been a part and the formation of said city into a consolidated city and county to be governed by such charter, and to have combined powers of a city and county, as provided in this Constitution for consolidated city and county government, and further to prescribe in said charter the date for the beginning of the official existence of said consolidated city and county.

It shall also be competent for any such city, not having already consolidated as a city and county to hereafter frame, in the manner prescribed in Section 8 of this article, a charter providing for a city and county government, in which charter there shall be prescribed territorial boundaries which may include contiguous territory not included in such city, which territory, however, must be included in the county within which such city is located.

**Separation**

If no additional territory is proposed to be added, then, upon the consent to the separation of any such city from the county in which it is located, being given by a majority of the qualified electors voting thereon in such county and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city, and the approval thereof by the Legislature, as prescribed in Section 8 of this article, said charter shall be deemed adopted and upon the date fixed therein said city shall be and become a consolidated city and county.

***Additional Territory***

If additional territory which consists wholly of only one incorporated city or town, or which consists wholly of unincorporated territory, is proposed to be added, then, upon the consent to such separation of such territory and of the city initiating the consolidation proposal being given by a majority of the qualified electors voting thereon in the county in which the city proposing such separation is located, and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city so proposing the separation, and also upon the approval of the proposal hereinafter set forth, by a majority of the qualified electors voting thereon in the whole of such additional territory, and the approval of said charter by the Legislature, as prescribed in Section 8 of this article, said charter shall be deemed adopted, the indebtedness hereinafter referred to shall be deemed to have been assumed, and upon the date fixed in said charter such territory and such city shall be and become one consolidated city and county.

***Consolidation Proposal***

The proposal to be submitted to the territory proposed to be added shall be substantially in the following form and submitted as one indivisible question:

“Shall the territory (herein designate in general terms the territory to be added) consolidate with the city of (herein insert name of the city initiating the proposition to form a city and county government) in a consolidated city and county government, and shall the charter as prepared by the city of (herein insert the name of the city initiating such proposition) be adopted as the charter of the consolidated city and county, and shall the said added territory become subject to taxation along with the entire territory of the proposed city and county, in accordance with the assessable valuation of the property of the said territory, for the following indebtedness of said city (herein insert name of the city initiating such proposition) to wit: (herein insert in general terms reference to any debts to be assumed, and if none insert ‘none’) ?”

***Consolidation of District—Proposal***

If additional territory is proposed to be added, which includes unincorporated territory and one or more incorporated cities or towns, or which includes more than one incorporated city or town, the consent of any such incorporated city or town shall be obtained by a majority vote of the qualified electors thereof voting upon a proposal substantially as follows:

“Shall (herein insert the name of the city or town to be included in such additional territory) be included in a district to be hereafter defined by the city of (herein insert the name of the city initiating the proposition to form a city and county government) which district shall, within two years from the date of this election, vote upon a proposal submitted as one indivisible question that such district to be then de-

scribed and set forth shall consolidate with (herein insert name of the city initiating said consolidation proposition) in a consolidated city and county government, and also that a certain charter, to be prepared by the city of (herein insert name of the city initiating such proposition) be adopted as the charter of such consolidated city and county, and that such district become subject to taxation along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city of (herein insert name of the city initiating such proposition) to wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')!"

#### *Establishment of District*

Any and all incorporated cities or towns to which the foregoing proposal shall have been submitted and a majority of whose qualified electors voting thereon shall have voted in favor thereof, together with such unincorporated territory as the city initiating such consolidation proposal may desire to have included, the whole to form an area contiguous to said city, shall be created into a district by such city, and the proposal substantially as above prescribed to be used when the territory proposed to be added consists wholly of only one incorporated city or town, or wholly of unincorporated territory, shall, within two years, be submitted to the voters of said entire district as one indivisible question.

#### *Separation of District*

Upon consent to the separation of such district and of the city initiating the consolidation proposal being given by a majority of the qualified electors voting thereon in the county in which the city proposing such separation is located, and upon the ratification of such charter by a majority of the qualified electors voting thereon in such city, and upon the approval of the proposal hereinbefore set forth by a majority of the qualified electors voting thereon in the whole of said district so proposed to be added, and upon the approval of said charter by the Legislature, as prescribed in Section 8 of this article, said charter shall be deemed adopted, the said indebtedness referred to in said proposal shall be deemed to have been assumed, and upon the date fixed in said charter, such district and such city shall be and become one consolidated city and county.

#### *Annexations to "Cities and Counties"*

6. It shall be competent for any consolidated city and county now existing, or which shall hereafter be organized, to annex territory contiguous to such consolidated city and county, unincorporated or otherwise, whether situated wholly in one county, or parts thereof be situate in different counties, said annexed territory to be an integral part of such city and county, provided that such annexation of territory shall only include any part of the territory which was at the time of the original consolidation of the annexing city and county, within the

county from which such annexing city and county was formed, together with territory which was concurrently, or has since such consolidation been joined in a county government with the area of the original county not included in such consolidated city and county.

#### ***Single Unit***

If additional territory, which consists wholly of only one incorporated city, city and county or town, or which consists wholly of unincorporated territory, is proposed to be annexed to any consolidated city and county now existing or which shall hereafter be organized, then, upon the consent to any such annexation being given by a majority of the qualified electors voting thereon in any county or counties in which any such additional territory is located, and upon the approval of such annexation proposal by a majority of the qualified electors voting thereon in such city and county, and also upon the approval of the proposal hereinafter set forth by a majority of the qualified electors voting thereon in the whole of such territory proposed to be annexed, the indebtedness hereinafter referred to shall be deemed to have been assumed, and at the time stated in such proposal, such additional territory and such city and county shall be and become one consolidated city and county, to be governed by the charter of the city and county proposing such annexation, and any subsequent amendment thereto.

#### ***Form of Proposal***

The proposal to be submitted to the territory proposed to be annexed, shall be substantially in the following form and submitted as one indivisible question:

"Shall the territory (herein designate in general terms the territory to be annexed) consolidate with the city and county of (herein insert the name of the city and county initiating the annexation proposal) in a consolidated city and county government, said consolidation to take effect (herein insert date when such consolidation shall take effect) and shall the said annexed territory become subject to taxation, as an integral part of the city and county so formed, in accordance with the assessable valuation of property of said territory for the following indebtedness of said city and county of (herein insert name of the city and county) to wit: (herein insert in general terms, reference to any debts to be assumed and if none insert 'none')?"

#### ***Districts***

If additional territory including unincorporated territory and one or more incorporated cities, cities and counties, or towns, or including more than one incorporated city, city and county, or town, is proposed to be annexed to any consolidated city and county now existing or which shall hereafter be organized, the consent of each such incorporated city, city and county, or town, shall be obtained by a majority

vote of the qualified electors of any such incorporated city, city and county, or town, voting upon a proposal substantially as follows:

***Form of Proposal***

“Shall (herein insert name of the city, city and county, or town, to be included in such annexed territory) be included in a district to be hereafter defined by the city and county of (herein insert the name of the city and county initiating the annexation proposal) which district shall within two years from the date of this election vote upon a proposal submitted as one indivisible question, that such district to be then described and set forth shall consolidate with (herein insert name of the city and county initiating the annexation proposal) in a consolidated city and county government, and that such district become subject to taxation, along with the entire territory of the proposed city and county in accordance with the assessable valuation of the property of said district for the following indebtedness of said city and county of (herein insert name of the city and county initiating the annexation proposal) to wit: (herein insert in general terms, reference to any debts to be assumed and if none insert ‘none’) ?”

***Establishment of District***

Any and all incorporated cities, cities and counties, or towns, to which the foregoing proposal shall have been submitted, and a majority of whose qualified electors voting thereon shall have voted in favor thereof, together with such unincorporated territory as the city and county initiating such annexation proposal may desire to have included, the whole to form an area contiguous to said city and county, shall be created into a district by said city and county, and the proposal substantially in the form above set forth to be used when the territory proposed to be added consists wholly of only one incorporated city, city and county, or town, or wholly of unincorporated territory, shall, within said two years, be submitted to the voters of said entire district as one indivisible question.

***Approval of Annexation***

Upon consent to any such annexation being given by a majority of the qualified electors voting thereon in any county or counties in which any such territory proposed to be annexed to said city and county is located, and upon the approval of any such annexation proposal by a majority of the qualified electors voting thereon in such city and county proposing such annexation, and also upon the approval of the proposal hereinbefore set forth by a majority of the qualified electors voting thereon in the whole of the district so proposed to be annexed, then, the said indebtedness referred to in said proposal shall be deemed to have been assumed, and upon the date stated in such annexation proposal such district and such city and county shall be and become one consolidated city and county, to be governed by the charter of the city

and county proposing such annexation, and any subsequent amendment thereto.

#### **Notice of Proposal Under Subdivisions 5 and 6**

Whenever any proposal is submitted to the electors of any county, territory, district, city, city and county, or town, as above provided, there shall be published, for at least five successive publications, in a newspaper of general circulation printed and published in any such county, territory, district, city, city and county, or town, the last publication to be not less than 20 days prior to any such election, a particular description of any territory or district to be separated, added, or annexed, together with a particular description of any debts to be assumed, as above referred to, unless such particular description is contained in the said proposal so submitted. In addition to said description, such territory shall also be designated in such notice by some appropriate name or other words of identification, by which such territory may be referred to and indicated upon the ballots to be used at any election at which the question of annexation or consolidation of additional territory is submitted as herein provided. If there be no such newspaper so printed and published in any such county, territory, district, city, city and county, or town, then such publication may be made in any newspaper of general circulation printed and published in the nearest county, city, city and county, or town where there may be such a newspaper so printed and published.

#### **Property—Debts**

If, by the adoption of any charter, or by annexation, any incorporated municipality becomes a portion of a city and county, its property, debts and liabilities of every description shall be and become the property, debts and liabilities of such city and county.

Every city and county which shall be formed, or the territory of which shall be enlarged as herein provided from territory taken from any county or counties, shall be liable for a just proportion of the debts and liabilities and be entitled to a just proportion of the property and assets of such county or counties, existing at the time such territory is so taken.

#### **Provisions Applicable**

The provisions of this Constitution applicable to cities, and cities and counties, and also those applicable to counties, so far as not inconsistent or prohibited to cities, or cities and counties, shall be applicable to such consolidated city and county government; and no provision of subdivision 5 or 6 of this section shall be construed as a restriction upon the plenary authority of any city or city and county having a freeholders' charter, as provided for in this Constitution, to determine in said charter any and all matters elsewhere in this Constitution authorized and not inconsistent herewith.

***Remaining Territory***

The Legislature shall provide for the formation of one or more counties from the portion or portions of a county or counties remaining after the formation of or annexation to a consolidated city and county, or for the transfer of such portion or portions of such original county or counties to adjoining counties. But such transfer to an adjoining county shall only be made after approval by a majority vote of the qualified electors voting thereon in such territory proposed to be so transferred.

***Limitations Inapplicable***

The provisions of Section 2 of this article, and also those provisions of Section 3 of this article which refer to the passing of any county line within five miles of the exterior boundary of a city or town in which a county seat of any county proposed to be divided is situated, and to the reducing of the population of any county upon the establishment of a new county, and to the minimum population on the forming of a new county, shall not apply to the formation of, nor to the extension of the territory of such consolidated cities and counties, nor to the formation of new counties, nor to the annexation of existing counties, as herein specified.

***Name of "City and County"***

Any city and county formed under this section shall have the right, if it so desires, to be designated by the official name of the city initiating the consolidation as it existed immediately prior to its adoption of a charter providing for a consolidated city and county government, except that such city and county shall be known under the style of a city and county.

***Borough System***

It shall be competent in any charter framed for a consolidated city and county, or by amendment thereof, to provide for the establishment of a borough system of government for the whole or any part of the territory of said city and county, by which one or more districts may be created therein, which districts shall be known as boroughs and which shall exercise such municipal powers as may be granted thereto by such charter, and for the organization, regulation, government and jurisdiction of such boroughs; provided, that in the event of such establishment or creation of a borough or boroughs, as hereinabove permitted, the boundaries thereof shall never afterwards be changed or altered, nor shall the governmental rights, powers or jurisdiction of any such borough or boroughs be thereafter limited, extended, modified or taken away, unless and until the borough or boroughs affected by such proposed change or alteration of boundaries, or by the proposed limitation, extension, modification or taking away of governmental rights, powers or jurisdiction, as the case may be, shall each have consented thereto, by the vote of a majority of the voters in each and every such borough,

voting at an election or elections called and held for such purpose in each of the boroughs so affected.

#### *City and "City and County" Debts*

No property in any territory hereafter consolidated with or annexed to any city or city and county shall be taxed for the payment of any indebtedness of such city or city and county outstanding at the date of such consolidation or annexation and for the payment of which the property in such territory was not, prior to such consolidation or annexation, subject to such taxation, unless there shall have been submitted to the qualified electors of such territory the proposition regarding the assumption of indebtedness as hereinbefore set forth and the same shall have been approved by a majority of such electors voting thereon.

#### *City Debts*

7. In all cases of annexation of unincorporated territory to an incorporated city, or the consolidation of two or more incorporated cities, assumption of existing bonded indebtedness by such unincorporated territory or by either of the cities so consolidating may be made by a majority vote of the qualified electors voting thereon in the territory or city which shall assume an existing bonded indebtedness. This provision shall apply whether annexation or consolidation is effected under this section or any other section of this Constitution, and the provisions of Section 18 of this article shall not be a prohibition thereof.

#### *Legislation*

The Legislature shall enact such general laws as may be necessary to carry out the provisions of this section and such general or special laws as may be necessary to carry out the provisions of subdivisions 5 and 6 of this section, including any such general or special act as may be necessary to permit a consolidated city and county to submit a new charter or charter amendment to take effect at the time that any consolidation, by reason of annexation to such consolidated city and county, takes effect, and, also, any such general law or special act as may be necessary to provide for any period after such consolidation, by reason of such annexation, takes effect, and prior to the adoption and approval of any such new charter or charter amendment.

(Amendment adopted November 5, 1918.)

#### *Compensation of County or Municipal Officer Not to Be Increased Nor Term Extended*

SEC. 9. *Section repealed June 27, 1933.*

#### *Municipality Not Released From Taxes*

SEC. 10. *Section repealed November 8, 1910.*

***Local Regulations***

SEC. 11. Any county, city, town, or township may make and enforce within its limits all such local, police, sanitary, and other regulations as are not in conflict with general laws.

***Assessments—Local Taxes***

SEC. 12.\* Except as otherwise provided in this Constitution, the Legislature shall have no power to impose taxes upon counties, cities, towns or other public or municipal corporations, or upon the inhabitants or property thereof, for county, city, town, or other municipal purposes, but may, by general laws, vest in the corporate authorities thereof the power to assess and collect taxes for such purposes.

***Value***

All property subject to taxation shall be assessed for taxation at its full cash value.

(Amendment adopted June 27, 1933.)

***No Delegation of Power as to Municipal Improvements, Property, Etc., to Private Corporations—Exception***

SEC. 13. The Legislature shall not delegate to any special commission, private corporation, company, association or individual any power to make, control, appropriate, supervise or in any way interfere with any county, city, town or municipal improvement, money, property, or effects, whether held in trust or otherwise, or to levy taxes or assessments or perform any municipal function whatever, except that the Legislature shall have power to provide for the supervision, regulation and conduct, in such manner as it may determine, of the affairs of irrigation districts, reclamation districts or drainage districts, organized or existing under any law of this State.

(Amendment adopted November 3, 1914.)

***Place of Payment of Municipal, County and District Bonds***

SEC. 13½. Any county, city and county, city, town, municipality, irrigation district, or other public corporation, issuing bonds under the laws of the State, is hereby authorized and empowered to make said bonds and the interest thereon payable at any place or places within or outside of the United States, and in any money, domestic or foreign, designated in said bonds.†

(Amendment adopted November 3, 1914.)

***General Laws as to Inspection of Merchandise—Measures—Standards***

SEC. 14. The Legislature may by general and uniform laws provide for the inspection, measurement and graduation of merchandise, manufactured articles and commodities, and may provide for the

\* See also Article XIII, Section 1, page 168.

† See also Article XI, Section 16½, following.

appointment of such officers as may be necessary for such inspection, measurement and graduation.

(Amendment adopted October 10, 1911.)

#### ***Private Property Not Taken for Municipal Debt***

SEC. 15. Private property shall not be taken or sold for the payment of the corporate debt of any political or municipal corporation.

#### ***Public Moneys to Be Deposited With Treasurer***

SEC. 16. All moneys, assessments, and taxes belonging to or collected for the use of any county, city, town, or other public or municipal corporation, coming into the hands of any officer thereof, shall immediately be deposited with the treasurer, or other legal depositary, to the credit of such city, town, or other corporation respectively, for the benefit of the funds to which they respectively belong.

#### ***Legal Depository of Public Moneys***

SEC. 16½. All moneys belonging to, or in the custody of, the State, or any county, city and county, city, town, municipality or other public or municipal corporation, within this State may be deposited in any national bank or banks within this State, or in any bank or banks organized under the laws of this State, in such manner and under such conditions as may be provided by any law adopted by the people under the initiative or by a two-thirds vote of each house of the Legislature and approved by the Governor and subject to the referendum; provided, that the laws now governing the deposit of such moneys shall continue in force until such laws shall be amended, changed or repealed as in this section authorized; and provided, further, that the State or any county, city and county, city, town, municipality or other public or municipal corporation, issuing bonds under the laws of this State, may deposit moneys in any bank or banks outside this State for the payment of the principal or interest of such bonds at the place or places at which the same are payable.\*

(Amendment adopted November 8, 1932.)

#### ***Misuse of Public Moneys***

SEC. 17. The making of profit out of county, city, town, or other public money, or using the same for any purpose not authorized by law, by any officer having the possession or control thereof, shall be a felony, and shall be prosecuted and punished as prescribed by law.

#### ***Municipal Debt Incurred in Any Year Not to Exceed Income—Exceptions***

SEC. 18. No county, city, town, township, board of education, or school district, shall incur any indebtedness or liability in any manner or for any purpose exceeding in any year the income and revenue provided for such year, without the assent of two-thirds of the qualified electors thereof, voting at an election to be held for that purpose, nor

\* See also Article XI, Section 13½, page 157.

unless before or at the time of incurring such indebtedness provision shall be made for the collection of an annual tax sufficient to pay the interest on such indebtedness as it falls due, and also provision to constitute a sinking fund for the payment of the principal thereof, on or before maturity, which shall not exceed 40 years from the time of contracting the same; provided, however, anything to the contrary herein notwithstanding, when two or more propositions for incurring any indebtedness or liability are submitted at the same election, the votes cast for and against each proposition shall be counted separately, and when two-thirds of the qualified electors, voting on any one of such propositions, vote in favor thereof, such proposition shall be deemed adopted.

(Amendment adopted November 8, 1949.)

#### **Financing of Off-street Parking**

SEC. 18½. Whenever under the laws of this State or under its charter any city, county, city and county, parking authority, district, or other public body is authorized to acquire or construct public parking lots, garages, or other automotive parking facilities, and for the payment of the cost of any thereof, to issue any bonds or other securities payable in whole or in part from revenues of any such parking facilities, such public body, and any other public body within the territorial area of which such public parking facilities are or will be situated, is also authorized to pledge, place a charge upon, or otherwise make available, as additional security for the payment of such securities, any or all revenues from any or all street parking meters then owned or controlled or to be acquired or controlled by it.

(New section adopted June 6, 1950.)

#### **Los Angeles County—Funds**

SEC. 18½. Section repealed November 8, 1949.

#### **Municipal Operation or Regulation of Public Works—Local Utilities**

SEC. 19. Any municipal corporation may establish and operate public works for supplying its inhabitants with light, water, power, heat, transportation, telephone service or other means of communication. Such works may be acquired by original construction or by the purchase of existing works, including their franchises, or both. Persons or corporations may establish and operate works for supplying the inhabitants with such services upon such conditions and under such regulations as the municipality may prescribe under its organic law, on condition that the municipal government shall have the right to regulate the charges therefor.\* A municipal corporation may furnish such services to inhabitants outside its boundaries; provided, that it shall not furnish any service to the inhabitants of any other municipality owning or operat-

\* See also Article XII, Section 23, page 166.

ing works supplying the same service to such inhabitants, without the consent of such other municipality, expressed by ordinance.

(Amendment adopted October 10, 1911.)

#### *Limitations on City, County, and District Expenditures*

SEC. 20. The expenditures, other than expenditures to pay interest and redemption charges on bonds heretofore or hereafter issued, of any county, city and county, municipality, district or other political subdivision of this State, whether or not operating under freeholders charters, shall not in any year exceed by more than 5 per centum the expenditures, other than expenditures to pay interest and redemption charges on bonds heretofore or hereafter issued, of such county, city and county, municipality, district or other political subdivision for the preceding year unless previously authorized by two-thirds vote of the qualified electors of any such county, city and county, district or other political subdivision, or by a majority vote of the electors of any such municipality voting at an election held for that purpose or unless previously authorized by the State Board of Equalization in such manner as may be provided by law; provided that no amount expended in excess of such 5 per centum shall become a part of the base for determining the maximum expenditure for a succeeding year; provided further, however, that any county, city and county, municipality, district, or other political subdivision of this State that decreases the amount of its expenditures in any year or years may increase, in any subsequent year or years, the amount of its expenditures by the amount, or any fraction thereof, so reduced, or by an amount not more than 5 per centum of the amount expended in the year immediately preceding. The limitations imposed in this paragraph shall be effective until June 30, 1935, but the Legislature may impose thereafter the same limitations for such period or periods as it may determine; provided, however, that the limitation upon expenditures imposed or authorized by this section shall not apply to expenditures by or on behalf of publicly owned public utilities, including publicly owned facilities operated for the promotion and accommodation of commerce and navigation, irrigation districts, county water districts, reclamation districts, municipal utility districts or metropolitan water districts organized or existing under the laws of this State or to expenditures arising out of any gift, bequest or donation.

#### *County Tax*

On and after January 1, 1935, the Legislature shall have power, by two-thirds vote of all the members elected to each of the two houses, to limit the amount of taxes which may be imposed upon real and personal property according to the value thereof for county or city and county purposes.\*

\* See also Article XIII, Section 15, page 178.

The Legislature shall pass all laws necessary to carry into effect the provisions of this section.

(New section adopted June 27, 1933.)

## ARTICLE XII

### Corporations

#### **Formation of Corporations—Amendment of Law**

**SECTION 1.** The Legislature shall have power, by general laws and not otherwise, to provide for the formation, organization and regulation of corporations and to prescribe their powers, rights, duties and liabilities and the powers, rights, duties and liabilities of their officers and stockholders or members. All laws now in force in this State concerning corporations and all laws that may be hereafter passed pursuant to this section may be altered from time to time or repealed.

(Amendment adopted November 4, 1930.)

#### **Individual Liability of Corporators**

**SEC. 2. Section repealed November 4, 1930.**

#### **Liability of Directors and Stockholders**

**SEC. 3. Section repealed November 4, 1930.**

#### **"Corporations" Defined—Power to Sue and Be Sued**

**SEC. 4.** The term corporations, as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships; and all corporations shall have the right to sue and shall be subject to be sued, in all courts, in like cases as natural persons.

(Constitution of 1849, Art. IV, Sec. 33, revised 1879.)

#### **Bank Corporations Only Under General Laws—No Bank Currency**

**SEC. 5.** The Legislature shall have no power to pass any act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws, and the Legislature shall provide for the classification of cities and towns by population for the purpose of regulating the business of banking. No corporation, association, or individual shall issue or put in circulation, as money, anything but the lawful money of the United States.

(Amendment adopted November 8, 1910.)

#### **Existing Franchises Void Unless Business Commenced**

**SEC. 6.** All existing charters, grants, franchises, special or exclusive privileges, under which an actual and bona fide organization shall not have taken place, and business been commenced in good faith, at the time of the adoption of this Constitution, shall thereafter have no validity.

***Extension of Corporate Franchises—Remission of Forfeiture***

SEC. 7. The Legislature shall not extend any franchise, nor remit the forfeiture of any franchise of any quasi public corporation, but may provide by general laws, uniformly applicable to all corporations formed for a limited period, for the extension of the term of existence of any corporation.

(Amendment adopted November 4, 1930.)

***Corporation Property Subject to Condemnation—Police Power  
Not Abridged—Rights of State***

SEC. 8. The exercise of the right of eminent domain shall never be so abridged or construed as to prevent the Legislature from taking the property and franchises of incorporated companies and subjecting them to public use the same as the property of individuals, and the exercise of the police power of the State shall never be so abridged or construed as to permit corporations to conduct their business in such manner as to infringe the rights of individuals or the general well-being of the State.

***Corporation Business Limited by Charter—Term of Holding Real Estate***

SEC. 9. *Section repealed November 4, 1930.*

***Transfer of Franchise Does Not Relieve From Liabilities***

SEC. 10. The Legislature shall not pass any laws permitting the leasing or alienation of any franchise, so as to relieve the franchise or property held thereunder from the liabilities of the lessor or grantor, lessee or grantee, contracted or incurred in the operation, use or enjoyment of such franchise, or any of its privileges.

***Issuance of Stock—Increase***

SEC. 11. *Section repealed November 4, 1930.*

***Election of Directors—Manner of Voting—Exceptions***

SEC. 12. *Section repealed November 4, 1930.*

***State Not to Lend Credit or Own Stock—Exception—Public Water  
Supplies—Mutual Water Companies***

SEC. 13. The State shall not in any manner loan its credit, nor shall it subscribe to, or be interested in the stock of any company, association, or corporation, except that the State and each political subdivision, district, municipality, and public agency thereof is hereby authorized to acquire and hold shares of the capital stock of any mutual water company or corporation when such stock is so acquired or held for the purpose of furnishing a supply of water for public, municipal or governmental purposes; and such holding of such stock shall entitle such holder thereof to all of the rights, powers and privileges, and shall subject such holder to the obligations and liabilities conferred or imposed by law upon other holders of stock in the mutual water company or corporation in which such stock is so held.

(Amendment adopted November 6, 1956.)

**Place of Business—Books**

SEC. 14. *Section repealed November 4, 1930.*

**Foreign Corporations**

SEC. 15. No corporation organized outside the limits of this State shall be allowed to transact business within this State on more favorable conditions than are prescribed by law to similar corporations organized under the laws of this State.

**County in Which Corporation to Be Sued**

SEC. 16. A corporation or association may be sued in the county where the contract is made or is to be performed, or where the obligation or liability arises, or the breach occurs; or in the county where the principal place of business of such corporation is situated, subject to the power of the court to change the place of trial as in other cases.

**Common Carriers—Connecting Roads**

SEC. 17. All railroad, canal, and other transportation companies are declared to be common carriers, and subject to legislative control. Any association or corporation, organized for the purpose, under the laws of this State, shall have the right to connect at the state line with railroads of other states. Every railroad company shall have the right with its road to intersect, connect with, or cross any other railroad, and shall receive and transport each the other's passengers, tonnage, and cars, without delay or discrimination.

**Railroad Official Not to Contract With Company**

SEC. 18. No president, director, officer, agent, or employee of any railroad or canal company shall be interested, directly or indirectly, in the furnishing of material or supplies to such company, nor in the business of transportation as a common carrier of freight or passengers over the works owned, leased, controlled, or worked by such company, except such interest in the business of transportation as lawfully flows from the ownership of stock therein.

**Public Officials Not to Receive Passes**

SEC. 19. No railroad or other transportation company shall grant free passes, or passes or tickets at a discount, to any person holding any office of honor, trust, or profit in this State; and the acceptance of any such pass or ticket, by a Member of the Legislature or any public officer, other than Railroad Commissioner, shall work a forfeiture of his office.

**No Increase of Rates Without Consent of Public Utilities Commission**

SEC. 20.\* No railroad or other transportation company shall raise any rate of charge for the transportation of freight or passengers or any charge connected therewith or incidental thereto, under any cir-

\* See also Article XII, Sections 22 and 23, pages 164 and 166.

cumstances whatsoever, except upon a showing before the Railroad Commission provided for in this Constitution, that such increase is justified, and the decision of the said commission upon the showing so made shall not be subject to review by any court except upon the question whether such decision of the commission will result in confiscation of property.

(Amendment adopted October 10, 1911.)

#### *Discrimination in Charges for Transportation Forbidden—Exceptions*

SEC. 21. No discrimination in charges or facilities for transportation shall be made by any railroad or other transportation company between places or persons, or in the facilities for the transportation of the same classes of freight or passengers within this State. It shall be unlawful for any railroad or other transportation company to charge or receive any greater compensation in the aggregate for the transportation of passengers or of like kind of property for a shorter than for a longer distance over the same line or route in the same direction, the shorter being included within the longer distance, or to charge any greater compensation as a through rate than the aggregate of the intermediate rates.

Provided, however, that upon application to the Railroad Commission \* provided for in this Constitution such company may, in special cases, after investigation, be authorized by such commission to charge less for longer than for shorter distances for the transportation of persons or property and the Railroad Commission may from time to time prescribe the extent to which such company may be relieved from the prohibition to charge less for the longer than for the shorter haul. The Railroad Commission shall have power to authorize the issuance of excursion and commutation tickets at special rates.

Nothing herein contained shall be construed to prevent the Railroad Commission from ordering and compelling any railroad or other transportation company to make reparation to any shipper on account of the rates charged to said shipper being excessive or discriminatory, provided no discrimination will result from such reparation.

(Amendment adopted October 10, 1911.)

#### *Public Utilities Commission Created—Powers and Duties*

SEC. 22.† The Railroad Commission is continued in existence as the Public Utilities Commission, which shall consist of five members. The commission shall be appointed by the Governor from the State at large; provided, that the Legislature, in its discretion, may divide the State into districts for the purpose of such appointments, said districts to be as nearly equal in population as practicable; and provided further that the three commissioners in office at the time this section takes effect shall serve out the term for which they were elected, and that two additional commissioners shall be appointed by the Governor immediately after

\* See Article XII, Section 22, below.

† See also Article XII, Section 20, page 163.

the adoption of this section, to hold office during the same term. Upon the expiration of said term, the term of office of each commissioner thereafter shall be six years, except the commissioners first appointed hereunder after such expiration, one of whom shall be appointed to hold office until January 1, 1917, two until January 1, 1919, and two until January 1, 1921. Whenever a vacancy in the office of commissioner shall occur, the Governor shall forthwith appoint a qualified person to fill the same for the unexpired term. Every appointment made by the Governor to the commission shall be subject to the advice and consent of a majority of the members elected to the Senate, except that if a vacancy occurs when the Legislature is not in session, the Governor may issue an interim commission which shall expire on the last day of the next regular or special session of the Legislature. Commissioners appointed for regular terms shall, at the beginning of the term for which they are appointed, and those appointed to fill vacancies, shall, immediately upon their appointment, enter upon the duties of their offices. The Legislature shall fix the salaries of the commissioners, but pending such action the salaries of the commissioners, their officers and employees shall remain as now fixed by law. The Legislature shall have the power, by a two-thirds vote of all members elected to each house, to remove any one or more of said commissioners from office for dereliction of duty or corruption or incompetency. All of said commissioners shall be qualified electors of this State, and no person in the employ of or holding any official relation to any person, firm or corporation, which said person, firm or corporation is subject to regulation by said Public Utilities Commission and no person owning stock or bonds of any such corporation or who is in any manner pecuniarily interested therein, shall be appointed to or hold the office of Public Utilities Commissioner. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission. The act of a majority of the commissioners when in session as a board shall be deemed to be the act of the commission; but any investigation, inquiry or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner designated for the purpose by the commission, and every order made by a commissioner so designated, pursuant to such inquiry, investigation or hearing, when approved or confirmed by the commission and ordered filed in its office, shall be deemed to be the order of the commission.

Said commission shall have the power to establish rates of charges for the transportation of passengers and freight by railroads and other transportation companies, and no railroad or other transportation company shall charge or demand or collect or receive a greater or less or different compensation for such transportation of passengers or freight, or for any service in connection therewith, between the points named in any tariff of rates, established by said commission than the rates, fares and charges which are specified in such tariff. The commission shall have the further power to examine books, records and papers of all rail-

road and other transportation companies; to hear and determine complaints against railroad and other transportation companies; to issue subpenas and all necessary process and send for persons and papers; and the commission and each of the commissioners shall have the power to administer oaths, take testimony and punish for contempt in the same manner and to the same extent as courts of record; the commission may prescribe a uniform system of accounts to be kept by all railroad and other transportation companies.

No provision of this Constitution shall be construed as a limitation upon the authority of the Legislature to confer upon the Public Utilities Commission additional powers of the same kind or different from those conferred herein which are not inconsistent with the powers conferred upon the Public Utilities Commission in this Constitution, and the authority of the Legislature to confer such additional powers is expressly declared to be plenary and unlimited by any provision of this Constitution.

The provisions of this section shall not be construed to repeal in whole or in part any existing law not inconsistent herewith, and the "Railroad Commission Act" of this State approved February 10, 1911, shall be construed with reference to this constitutional provision and any other constitutional provision becoming operative concurrently herewith. And the said act shall have the same force and effect as if the same had been passed after the adoption of this provision of the Constitution and of all other provisions adopted concurrently herewith, except that the three commissioners referred to in said act shall be held and construed to be the five commissioners provided for herein.

Whenever in this Constitution or the laws of this State "Railroad Commission" is used, it shall be deemed to refer to the Public Utilities Commission.

(Amendment adopted November 5, 1946.)

#### **Public Utilities—Supervision—Local Regulation**

SEC. 23.\* Every private corporation, and every individual or association of individuals, owning, operating, managing, or controlling any commercial railroad, interurban railroad, street railroad, canal, pipeline, plant, or equipment, or any part of such railroad, canal, pipeline, plant or equipment within this State, for the transportation or conveyance of passengers, or express matter, or freight of any kind, including crude oil, or for the transmission of telephone or telegraph messages, or for the production, generation, transmission, delivery or furnishing of heat, light, water or power or for the furnishing of storage or wharfage facilities, either directly or indirectly, to or for the public, and every common carrier, is hereby declared to be a public utility subject to such control and regulation by the Railroad Commission † as may be provided by the Legislature, and every class of private corporations, individuals,

\* See also Article IV, Section 33, page 100; Article XI, Section 19, page 159; Article XII, Section 20, page 163; and Article XIV, Section 1, page 183.

† See Article XII, Section 22, page 164.

or associations of individuals hereafter declared by the Legislature to be public utilities shall likewise be subject to such control and regulation. The Railroad Commission shall have and exercise such power and jurisdiction to supervise and regulate public utilities, in the State of California, and to fix the rates to be charged for commodities furnished, or services rendered by public utilities as shall be conferred upon it by the Legislature, and the right of the Legislature to confer powers upon the Railroad Commission respecting public utilities is hereby declared to be plenary and to be unlimited by any provision of this Constitution. From and after the passage by the Legislature of laws conferring powers upon the Railroad Commission respecting public utilities, all powers respecting such public utilities vested in boards of supervisors, or municipal councils, or other governing bodies of the several counties, cities and counties, cities and towns, in this State, or in any commission created by law and existing at the time of the passage of such laws, shall cease so far as such powers shall conflict with the powers so conferred upon the Railroad Commission; provided, however, that this section shall not affect such powers of control over public utilities as relate to the making and enforcement of local, police, sanitary and other regulations, other than the fixing of rates, vested in any city and county or incorporated city or town as, at an election to be held pursuant to law, a majority of the qualified electors of such city and county, or incorporated city or town, voting thereon, shall vote to retain, and until such election such powers shall continue unimpaired; but if the vote so taken shall not favor the continuation of such powers they shall thereafter vest in the Railroad Commission as provided by law; and provided, further, that where any such city and county or incorporated city or town shall have elected to continue any of its powers to make and enforce such local, police, sanitary and other regulations, other than the fixing of rates, it may, by vote of a majority of its qualified electors voting thereon, thereafter surrender such powers to the Railroad Commission in the manner prescribed by the Legislature; and provided, further, that this section shall not affect the right of any city and county or incorporated city or town to grant franchises for public utilities upon the terms and conditions and in the manner prescribed by law. Nothing in this section shall be construed as a limitation upon any power conferred upon the Railroad Commission by any provision of this Constitution now existing or adopted concurrently herewith.

(Amendment adopted November 3, 1914.)

**Legislature May Invest Public Utilities Commission \* With Power to Fix Compensation for Taking Public Utility Property**

SEC. 23a. The Railroad Commission \* shall have and exercise such power and jurisdiction as shall be conferred upon it by the Legislature to fix the just compensation to be paid for the taking of any property of a public utility in eminent domain proceedings by the State or any county, city and county, incorporated city or town, municipal water

\* See Article XII, Section 22, page 164.

district, irrigation district or other public corporation or district, and the right of the Legislature to confer such powers upon the Railroad Commission is hereby declared to be plenary and to be unlimited by any provision of this Constitution. All acts of the Legislature heretofore adopted which are in accordance herewith are hereby confirmed and declared valid.

(Amendment adopted November 4, 1924.)

**Duty of Legislature to Enforce Article**

**SEC. 24.** The Legislature shall pass all laws necessary for the enforcement of the provisions of this article.

## **ARTICLE XIII**

### **Revenue and Taxation**

**Property to Be Taxed—Ad Valorem Taxes**

**SECTION 1.** All property in the State except as otherwise in this Constitution provided, not exempt under the laws of the United States, shall be taxed in proportion to its value, to be ascertained as provided by law, or as hereinafter provided.\* The word "property," as used in this article and section, is hereby declared to include moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real, personal, and mixed, capable of private ownership; provided, that a mortgage, deed of trust, contract, or other obligation by which a debt is secured when land is pledged as security for the payment thereof, together with the money represented by such debt, shall not be considered property subject to taxation †; and further provided, that property used for free public libraries and free museums, growing crops, property used exclusively for public schools, and such as may belong to this State, or to any county, city and county, or municipal corporation within this State shall be exempt from taxation, except such lands and the improvements thereon located outside of the county, city and county or municipal corporation owning the same as were subject to taxation at the time of the acquisition of the same by said county, city and county, or municipal corporation; provided, that no improvements of any character whatever constructed by any county, city and county or municipal corporation shall be subject to taxation. All lands or improvements thereon, belonging to any county, city and county or municipal corporation, not exempt from taxation, shall be assessed by the assessor of the county, city and county or municipal corporation in which said lands or improvements are located, and said assessment shall be subject to review, equalization and adjustment by the State Board of Equalization. The Legislature may provide, except in the case of credits secured by mortgage or trust deed, for a deduction from credits of debts due to bona fide residents of this State.

\* See also Article XI, Section 12, page 157.

† See also Article XIII, Section 14, page 174.

Every act heretofore done and proceeding heretofore taken by this State or any taxing agency in the State in respect to the taxation of property belonging to the United States, is hereby validated and made legally effective from the date thereof, to the extent it would have been valid and legally effective if done or taken after the adoption of this amendment.

(Amendment adopted May 18, 1944.)

#### **Exemption of College Property—College Buildings Under Construction**

SEC. 1a. Any educational institution of collegiate grade within the State of California, not conducted for profit, shall hold exempt from taxation its buildings and equipment, its grounds within which its buildings are located, not exceeding 100 acres in area, its securities and income used exclusively for the purposes of education.

The exemption granted by this section applies to and includes a building in the course of construction on or after the first Monday of March, 1950, and the land on which the building is located, if the property is intended when completed to be used exclusively for the purposes of education.

(Amendment adopted November 2, 1954.)

#### **Exemption of Burial Plots**

SEC. 1b. All property used or held exclusively for the burial or other permanent deposit of the human dead or for the care, maintenance or upkeep of such property or such dead, except as used or held for profit, shall be free from taxation and local assessment.

(New section adopted November 2, 1926.)

#### **Exemption of Property Used for Religious, Hospital, and Charitable Purposes—Buildings Under Construction**

SEC. 1c. In addition to such exemptions as are now provided in this Constitution, the Legislature may exempt from taxation all or any portion of property used exclusively for religious, hospital or charitable purposes and owned by community chests, funds, foundations or corporations organized and operated for religious, hospital or charitable purposes, not conducted for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual. As used in this section, "property used exclusively for religious, hospital or charitable purposes" shall include a building and its equipment in the course of construction on or after the first Monday of March, 1954, together with the land on which it is located as may be required for the use and occupation of the building, to be used exclusively for religious, hospital or charitable purposes.

(New section adopted November 2, 1954.)

#### **Exemption on Account of Military Service**

SEC. 1*1*. The property to the amount of one thousand dollars (\$1,000) of every resident of this State who has served in the Army,

Navy, Marine Corps, Coast Guard or Revenue Marine (Revenue Cutter) Service of the United States (1) in time of war, or (2) in time of peace, in a campaign or expedition for service in which a medal has been issued by the Congress of the United States, and in either case has received an honorable discharge therefrom, or who after such service of the United States under such conditions has continued in such service, or who in time of war is in such service, or who has been released from active duty because of disability resulting from such service in time of peace or under other honorable conditions, or lacking such amount of property in his own name, so much of the property of the wife of any such person as shall be necessary to equal said amount; and the property to the amount of one thousand dollars (\$1,000) of the widow resident in this State, or if there be no such widow, of the widowed mother resident in this State, of every person who has so served and has died either during his term of service or after receiving an honorable discharge from said service, or who has been released from active duty because of disability resulting from such service in time of peace or under other honorable conditions, and the property to the amount of one thousand dollars (\$1,000) of pensioned widows, fathers, and mothers, resident in this State, of soldiers, sailors and marines who served in the Army, Navy, Marine Corps, Coast Guard or Revenue Marine (Revenue Cutter) Service of the United States shall be exempt from taxation; provided, this exemption shall not apply to any person named herein owning property of the value of five thousand dollars (\$5,000) or more, or where the wife of such soldier or sailor owns property of the value of five thousand dollars (\$5,000) or more. No exemption shall be made under the provisions of this section of the property of a person who is not legal resident of the State; provided, however, all real property owned by the Ladies of the Grand Army of the Republic and all property owned by the California Soldiers Widows Home Association shall be exempt from taxation.

The Legislature may exempt from taxation, in whole or in part, the property, constituting a home, of every resident of this State who, by reason of his military or naval service, is qualified for the exemption provided in the first paragraph of this section, without regard to any limitation contained therein on the value of property owned by such person or his wife, and who, by reason of a permanent and total service-connected disability incurred in such military or naval service due to the loss, or loss of use, as the result of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude locomotion without the aid of braces, crutches, canes, or a wheelchair, has received assistance from the Government of the United States in the acquisition of such property; except that such exemption shall not extend to more than one home nor exceed five thousand dollars (\$5,000) for any person or for any person and his spouse. This exemption shall be in lieu of the exemption provided in the first paragraph of this section.

(Amendment adopted November 2, 1954.)

**Exemption of Church Property—Church Buildings Under Construction—Parking Lots**

SEC. 1*½*. All buildings and equipment, and so much of the real property on which they are situated as may be required for the convenient use and occupation of said buildings, when the same are used solely and exclusively for religious worship, and any building and its equipment in the course of erection, together with the land on which it is located as may be required for the convenient use and occupation of the building, if such building, equipment and land are intended to be used solely and exclusively for religious worship, and, until the Legislature shall otherwise provide by law, that real property owned by the owner of the building which the owner is required by law to make available for, and which is necessarily and reasonably required and exclusively used for the parking of the automobiles of persons while attending or engaged in religious worship in said building whether or not said real property is contiguous to land on which said building is located, and which real property has not been rented or used for any commercial purpose at any other time during the preceding year, shall be free from taxation; provided, that no building so used or, if in the course of erection, intended to be so used, its equipment or the land on which it is located, which may be rented for religious purposes and rent received by the owner therefor, shall be exempt from taxation.

(Amendment adopted November 6, 1956.)

**Exemption of Property of Orphan Asylums**

SEC. 1*½a*. All buildings, and so much of the real property connected therewith as may be required for the occupation of institutions sheltering more than 20 orphan or half-orphan children receiving state aid shall be free from taxation; provided, that no building or real or personal property so used which may be rented and the rent received by the owner therefor shall be exempt from taxation under the terms of this act.

(New section adopted November 2, 1920.)

**Exemption of Property of San Francisco Bay Exposition From Fees and Taxes**

SEC. 1.6. *Section repealed November 8, 1949.*

**Exemption of State, Municipal, and District Bonds**

SEC. 1*¾*. All bonds hereafter issued by the State of California, or by any county, city and county, municipal corporation, or district (including school, reclamation, and irrigation districts) within said State, shall be free and exempt from taxation.

(New section adopted November 4, 1902.)

***Land and Improvements Separately Assessed***

SEC. 2. Land, and the improvements thereon, shall be separately assessed. Cultivated and uncultivated land, of the same quality, and similarly situated, shall be assessed at the same value.

***Method of Assessment of Land Sectionized and Not Sectionized***

SEC. 3. Every tract of land containing more than 640 acres and which has been sectionized by the United States Government, shall be assessed, for the purposes of taxation, by sections or fractions of sections. The Legislature shall provide by law for the assessment, in small tracts, of all lands not sectionized by the United States Government.

***Taxation of Evidence of Indebtedness***

SEC. 4. *Section repealed November 8, 1910.*

***Exemption of Vessels***

SEC. 4. All vessels of more than 50 tons burden registered at any port in this State and engaged in the transportation of freight or passengers shall be exempt from taxation except for state purposes.

(Amendment adopted November 2, 1954.)

***Contract to Pay Tax on Borrowed Money***

SEC. 5. *Section repealed November 6, 1906.*

***Contract Impairing Power of Taxation Forbidden***

SEC. 6. The power of taxation shall never be surrendered or suspended by any grant or contract to which the State shall be a party.

***Payment of Real Property Taxes by Installments***

SEC. 7. The Legislature shall have the power to provide by law for the payment of all taxes on real property by installments.

***Taxpayer's Annual Property Statement***

SEC. 8. The Legislature shall by law require each taxpayer in this State to make and deliver to the county assessor, annually, a statement, under oath, setting forth specifically all the real and personal property owned by such taxpayer, or in his possession, or under his control, at 12 o'clock meridian, on the first Monday of March.

***Reassessment of Property Damaged by 1933 Earthquake***

SEC. 8a. *Section repealed November 8, 1949.*

***State and County Boards of Equalization***

SEC. 9. A State Board of Equalization, consisting of one member from each congressional district in this State, as the same existed in 1879, shall be elected by the qualified electors of their respective districts, at the general election to be held in the year 1886, and at each

gubernatorial election thereafter, whose term of office shall be for four years; whose duty it shall be to equalize the valuation of the taxable property in the several counties of the State for the purposes of taxation. The Controller of State shall be ex officio a member of the board. The boards of supervisors of the several counties of the State shall constitute boards of equalization for their respective counties, whose duty it shall be to equalize the valuation of the taxable property in the county for the purpose of taxation; provided, such state and county boards of equalization are hereby authorized and empowered, under such rules of notice as the county boards may prescribe, as to the county assessments, and under such rules of notice as the state board may prescribe as to the action of the state board, to increase or lower the entire assessment roll, or any assessment contained therein, so as to equalize the assessment of the property contained in said assessment roll, and make the assessment conform to the true value in money of the property contained in said roll; provided, that no board of equalization shall raise any mortgage, deed of trust, contract, or other obligation by which a debt is secured, money, or solvent credits, above its face value. The present State Board of Equalization shall continue in office until their successors, as herein provided for, shall be elected and shall qualify. The Legislature shall have power to redistrict the State into four districts as nearly equal in population as practical,\* and to provide for the elections of members of said Board of Equalization.

(Amendment adopted November 4, 1884.)

#### **Assessment of Taxes**

SEC. 9a. The taxes levied for any current tax year upon personal property and assessments upon possession of, claim to, or right to the possession of land and upon taxable improvements located on land exempt from taxation, which are not a lien upon land sufficient in value to secure their payment, shall be based upon the rates for taxes levied for the preceding tax year upon property of the same kind where the taxes were a lien upon land sufficient in value to secure the payment thereof. Nothing in this section shall be construed to prohibit the equalization each year of the assessment on such property in the manner now or hereafter provided by law.

(Amendment adopted November 3, 1936.)

#### **Property, Where Assessed**

SEC. 10. All property, except as otherwise in this Constitution provided, shall be assessed in the county, city, city and county, town or township, or district in which it is situated, in the manner prescribed by law.

(Amendment adopted November 8, 1910.)

\* See also Government Code, Section 15600 (formerly Political Code, Section 125.)

**Exemption of Personal Property**

SEC. 10½. The personal property of every householder to the amount of \$100, the articles to be selected by each householder, shall be exempt from taxation.

(New section adopted November 8, 1904.)

**Income Tax May Be Levied**

SEC. 11. Income taxes may be assessed to and collected from persons, corporations, joint-stock associations, or companies resident or doing business in this State, or any one or more of them, in such cases and amounts, and in such manner, as shall be prescribed by law.

**Poll Tax, Levy of**

SEC. 12. *Section repealed November 5, 1946.*

**Taxation of Notes, Stock, Bonds, Etc.**

SEC. 12½. *Section repealed June 27, 1933.*

**Exemption of Certain Trees and Vines**

SEC. 12¾. Fruit and nut-bearing trees under the age of four years from the time of planting in orchard form, and grapevines under the age of three years from the time of planting in vineyard form, and all immature forest trees which have been planted on lands not previously bearing merchantable timber, or planted or of natural growth, upon lands from which the merchantable original growth timber stand to the extent of 70 percent of all trees over 16 inches in diameter has been removed, shall be exempt from taxation, and nothing in this article shall be construed as subjecting such trees and grapevine and forest trees to taxation; provided, that forest trees or timber shall be considered mature for the purpose of this act at such time, after 40 years from the time of planting or removal of the original timber as above provided, as a board consisting of a representative from the State Board of Forestry, a representative from the State Board of Equalization and the county assessor of the county in which the timber is located, shall by a majority thereof so determine.

(Amendment adopted November 2, 1926.)

**Legislature to Provide for Enforcement**

SEC. 13. The Legislature shall pass all laws necessary to carry out the provisions of this article.

**Taxation for State Purposes—Assessment of Utilities**

SEC. 14.\* All pipelines, flumes, canals, ditches and aqueducts not entirely within the limits of any one county, and all property, other than franchises, owned or used by (1) railroad companies including street railways, herein defined to include interurban electric railways,

\* See also Article XIII, Section 1, page 168.

whether operating in one or more counties, (2) sleeping car, dining car, drawing-room car, and palace car companies, refrigerators, oil, stock, fruit and other car-loaning and other car companies operating upon the railroads in the State, (3) companies doing express business on any railroad, steamboat, vessel or stage line in this State, (4) telegraph and telephone companies, (5) companies engaged in the transmission or sale of gas or electricity, shall be assessed annually by the State Board of Equalization, at the actual value of such property.

All property so assessed by said board shall be subject to taxation to the same extent and in the same manner as other property.

All companies herein mentioned and their franchises, other than insurance companies and their franchises, shall be taxed in the same manner and at the same rates as mercantile, manufacturing and business corporations and their franchises are taxed pursuant to Section 16 of this article; provided, that nothing herein shall be construed to release any company mentioned in this section from the payment of any amount agreed to be paid or required by law to be paid for any special privilege or franchise granted by any political subdivision or municipality of this State; provided further, that no excise, or income tax or any other form of tax or license charge shall be levied or assessed upon or collected from the companies, or any of them, mentioned in the first paragraph of this section, in any manner or form, different from, or at a higher rate than that imposed upon or collected from mercantile, manufacturing and business corporations doing business within this State.

#### ***Personal Property Taxes***

The Legislature shall have the power to provide for the assessment, levy and collection of taxes upon all forms of tangible personal property, all notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, mortgages, and any legal or equitable interest therein, not exempt from taxation under the provisions of this Constitution, in such manner, and at such rates, as may be provided by law, and in pursuance of the exercise of such power the Legislature, two-thirds of all of the members elected to each of the two houses voting in favor thereof, may classify any and all kinds of personal property for the purposes of assessment and taxation in a manner and at a rate or rates in proportion to value different from any other property in this State subject to taxation and may exempt entirely from taxation any or all forms, types or classes of personal property.

#### ***Rate on Notes, Etc.***

The total tax imposed on notes, debentures, shares of capital stock, bonds, solvent credits, deeds of trust, mortgages and any legal or equitable interest therein in pursuance of the provisions of this section shall not be at a rate in excess of four-tenths of 1 percent of the actual value of such property and no tax burden shall be imposed upon any personal

property either tangible or intangible which shall exceed the tax burden on real property in the same taxing jurisdiction in proportion to the actual value of such property.

#### "Companies" Defined

The word "companies" as used in this section shall include persons, partnerships, joint stock associations, companies and corporations.

Nothing herein contained shall be construed to subject to assessment and taxation property which is exempt from taxation under other provisions of this Constitution.

(Amendment adopted November 8, 1949.)

#### Time of Change in State Tax System—Former Section 14

SEC. 14½. Section repealed November 8, 1949.

#### Taxation of Insurance Companies Subsequent to December 31, 1937

SEC. 14¾. Section repealed November 8, 1949.

#### Taxation of Insurance Companies

SEC. 14⅔. (a) "Insurer," as used in this section, includes insurance companies or associations and reciprocal or interinsurance exchanges and the State Compensation Insurance Fund. As used in this paragraph, "companies" includes persons, partnerships, joint stock associations, companies and corporations.

(b) An annual tax is hereby imposed on each insurer doing business in this State on the base, at the rates, and subject to the deductions from the tax hereinafter specified.

(c) In the case of an insurer not transacting title insurance in this State, the "basis of the annual tax" is, in respect to each year, the amount of gross premiums, less return premiums, received in such year by such insurer upon its business done in this State, other than premiums received for reinsurance and for ocean marine insurance.

In the case of an insurer transacting title insurance in this State, the "basis of the annual tax" is, in respect to each year, all income upon business done in this State, except:

- (1) Interest and dividends.
- (2) Rents from real property.
- (3) Profits from the sale or other disposition of investments.
- (4) Income from investments.

"Investments" as used in this subdivision (d) includes property acquired by such insurer in the settlement or adjustment of claims against it but excludes investments in title plants and title records. Income derived directly or indirectly from the use of title plants and title records is included in the basis of the annual tax.

In the case of an insurer transacting title insurance in this State which has a trust department and does a trust business under the banking laws of this State, there shall be excluded from the basis of the

annual tax imposed by this section, the income of, and from the assets of, such trust department and such trust business, if such income is taxed by this State or included in the measure of any tax imposed by this State.

#### **Rate of Tax**

(d) The rate of the tax to be applied to the basis of the annual tax in respect to each year is 2.35 percent.

#### **Real Estate Deduction**

(e) Each insurer shall have the right to deduct from the annual tax imposed by this section upon such insurer in respect to a particular year the amount of real estate taxes paid by it, in that year, before, or within 30 days after, becoming delinquent, on real property owned by it at the time of payment, and in which was located, in that year, its home office or principal office in this State. Such real property may consist of one building or of two or more adjacent buildings in which such an office is located, the land on which they stand, and so much of the adjacent land as may be required for the convenient use and occupation thereof.

Where as a result of merger, consolidation, or other method of acquisition of substantially all of the assets of one or more insurers by another insurer, effected prior to January 1, 1939, an insurer owns more than one parcel of real property in this State in which was located a home office or principal office of an insurer immediately prior to such acquisition, the owner shall designate one of such properties as its home or principal office. Real estate taxes paid by it in any of the years 1943 to 1952, inclusive, before, or within 30 days after, becoming delinquent, on such property owned by it at the time of payment and not so designated may also be deducted from the annual tax imposed by this section in respect to such year and are included within the deduction provided for in this subdivision.

#### **In Lieu Tax Exceptions**

(f) The tax imposed on insurers by this section is in lieu of all other taxes and licenses, state, county, and municipal, upon such insurers and their property, except:

(1) Taxes upon their real estate.  
(2) That an insurer transacting title insurance in this State which has a trust department or does a trust business under the banking laws of this State is subject to taxation with respect to such trust department or trust business to the same extent and in the same manner as trust companies and the trust departments of banks doing business in this State.

(3) When by the laws of any other state or country any taxes, fines, penalties, licenses, fees, deposits of money or securities or other obligations or prohibitions are imposed on insurers of this State doing business in such other state or country, or upon their agents therein, in excess of

those imposed upon insurers of such other state or country or upon their agents therein, so long as such laws continue in force, the same obligations and prohibitions of whatsoever kind may be imposed by the Legislature upon insurers of such other state or country doing business in this State, or upon their agents herein.

(4) The tax on ocean marine insurance.

(5) Motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the State upon vehicles, motor vehicles or the operation thereof.

#### *Ocean Marine Insurance*

(g) Every insurer transacting the business of ocean marine insurance in this State shall annually pay to the State a tax measured by that proportion of the underwriting profit of such insurer from such insurance written in the United States, which the gross premiums of the insurer from such insurance written in this State bear to the gross premiums of the insurer from such insurance written within the United States, at the rate of 5 per centum, which tax shall be in lieu of all other taxes and licenses, state, county and municipal, upon such insurer, except taxes upon real estate, and such other taxes as may be assessed or levied against such insurer on account of any other class of insurance written by it. Deductions from the annual tax pursuant to subdivision (e) cannot be made from the ocean marine tax. The Legislature shall define the terms "ocean marine insurance" and "underwriting profit," and shall provide for the assessment, levy, collection and enforcement of the ocean marine tax.

#### *Assessments*

(h) The taxes provided for by this section shall be assessed by the State Board of Equalization.

#### *Change in Rates*

(i) The Legislature, two-thirds of all the members elected to each of the two houses voting in favor thereof, may by law change the rate or rates of taxes herein imposed upon insurers.

#### *Intent of Section*

(j) This section is not intended to and does not change the law as it has previously existed with respect to the meaning of the words "gross premiums, less return premiums, received" as used in this section or as used in Section 14 or 14½ of this article.

(Amendment adopted November 4, 1952.)

#### *Apportionment of State Revenues—Support of Schools*

SEC. 15.\* Out of the revenue from state taxes for which provision is made in this article, together with all other state revenues, there shall first be set apart the moneys to be applied by the State to the support of the Public School System and the State University.

\* See also Article XI, Section 20, page 160.

If the Legislature limits the amount of revenue which may be raised from taxes upon the real and personal property according to the value thereof in pursuance of its power so to do under Section 20 of Article XI of this Constitution, then the Legislature shall provide for the raising of revenue by any form of taxation not prohibited by this Constitution in amounts sufficient to apportion and shall apportion to each county and city and county an amount equal to the deficiency in the revenues thereof resulting from such limitation, as such deficiency shall be determined by law; provided, however, that no tax shall be levied by the Legislature in pursuance of this section upon property in proportion to the value thereof in excess of the limitation for which provision is made in Section 34a of Article IV of this Constitution with reference to taxes for state purposes on real and personal property and further provided that no taxes upon property in proportion to the value thereof shall be levied in pursuance of this section for the support of any county or city and county government.

No injunction or writ of mandate or other legal or equitable process shall ever issue in any suit, action or proceeding in any court against this State, or any officer thereof, to prevent or enjoin the collection of any tax levied under the provisions of this article; but after payment thereof action may be maintained to recover, with interest, in such manner as may be provided by law, any tax claimed to have been illegally collected.

The provisions of this section as they read on April 1, 1946, shall remain operative to and including June 30, 1947, and no longer, notwithstanding any provision of this Constitution to the contrary.

(Amendment adopted November 5, 1946. Initiative measure.)

#### **Time of Change in State Tax System—Former Section 15**

**SEC. 15½. Section repealed November 8, 1949.**

#### **Bank Taxes**

**SEC. 16. 1. (a)** Banks, including national banking associations, located within the limits of this State, shall annually pay to the State a tax, at the rate to be provided by law according to or measured by their net income, which shall be in lieu of all other taxes and licenses, state, county and municipal, upon such banks, or the shares thereof, except taxes upon their real property and, when permitted by the Congress of the United States with respect to national banking associations, motor vehicle and other vehicle registration license fees and any other tax or license fee imposed by the State upon vehicles, motor vehicles or the operation thereof.

**(b)** The Legislature may provide by law for any other form of taxation now or hereafter permitted by the Congress of the United States respecting national banking associations; provided, that such form of taxation shall apply to all banks located within the limits of this State.

***Corporation and Franchise Taxes***

2. The Legislature may provide by law for the taxation of corporations, their franchises, or any other franchises, by any method not prohibited by this Constitution or the Constitution or laws of the United States.

***Two-thirds Vote***

3. Any tax imposed pursuant to this section must be under an act passed by not less than two-thirds vote of all the members elected to each of the two houses of the Legislature.

(Amendment adopted November 4, 1952.)

***Time of Change in State Tax System—Former Section 16***

SEC. 16<sup>a</sup>. Section repealed November 8, 1949.

***Proceedings by Chartered Cities or Counties for Public Improvements***

SEC. 17. All proceedings undertaken by any chartered city, or by any chartered county or by any chartered city and county for the construction of any public improvement, or the acquisition of any property for public use, or both, where the cost thereof is to be paid in whole or in part by special assessment or other special assessment taxes upon property, whether the special assessment will be specific or a special assessment tax upon property wholly or partially according to the assessed value of such property, shall be undertaken only in accordance with the provisions of law governing: (a) limitations of costs of such proceedings or assessments for such proceedings, or both, in relation to the value of any property assessed therefor, (b) determination of a basis for the valuation of any such property, (c) payment of the cost in excess of such limitations, (d) avoidance of such limitations, (e) postponement or abandonment, or both, of such proceedings in whole or in part upon majority protest; and particularly in accordance with such provisions as contained in Sections 10, 11 and 13a of the Special Assessment Investigation, Limitation and Majority Protest Act of 1931 or any amendments, codification, re-enactment or restatement thereof.

Notwithstanding any provisions for debt limitation or majority protest as in this section provided, if, after the giving of such reasonable notice by publication and posting and the holding of such public hearing as the legislative body of any such chartered county, chartered city or chartered city and county shall have prescribed, such legislative body by no less than a four-fifths vote of all members thereof, finds and determines that the public convenience and necessity require such improvements or acquisitions, such debt limitation and majority protest provisions shall not apply.

Nothing contained in this section shall require the legislative body of any such city, county, or city and county to prepare or to cause to be prepared, hear, notice for hearing or report the hearing of any report as to any such proposed construction or acquisition or both.

(New section adopted November 5, 1940.)

**Taxation of Ocean Marine Insurers**

SEC. 18. *Repealed June 27, 1933. (See note below, and see also Art. XIII, Section 14½, page 176.)*

**Saving Clause**

NOTE—The measure (Proposition 1, Senate Constitutional Amendment No. 30) adopted by vote of the people on June 27, 1933, which amended Sections 14, 15, and 16, and repealed Sections 12½ and 18 of Article XIII, and which added Sections 14½, 15½, and 16½ thereto, contained the following provision:

"Eight—That all laws now in effect under which taxes are levied or imposed shall be continued in effect until altered or repealed by the Legislature; provided, however, that immediately upon adoption of the foregoing constitutional amendments it shall be the duty of the Legislature to pass all laws necessary to carry into effect the provisions of said amendments and to repeal or amend all laws inconsistent therewith."

**Saving Clause—Tax Assessment—Collectibility**

SEC. 18. The repeal or deletion of any provision of this article, regardless of when effected, shall not affect the collectibility of any tax assessed pursuant to such provisions while such provision was in effect.

(New section adopted November 8, 1949.)

**Community Redevelopment Projects**

SEC. 19. All property in a redevelopment project established under the Community Redevelopment Law Act as now existing or hereafter amended, except publicly owned property not subject to taxation by reason of such ownership, shall be taxed in proportion to its value as provided in Section 1 of this article, and such taxes (the word "taxes" as used herein shall include, but shall not be limited to, all levies on an ad valorem basis upon land or real property) shall be levied and collected as other taxes are levied and collected by the respective taxing agencies.

The Legislature may provide that any redevelopment plan may contain a provision that the taxes, if any, so levied upon such taxable property in a redevelopment project each year by or for the benefit of the State of California, any city, county, city and county, district, or other public corporation (hereinafter sometimes called "taxing agencies") after the effective date of the ordinance approving the redevelopment plan, shall be divided as follows:

(a) That portion of the taxes which would be produced by the rate upon which the tax is levied each year by or for each of said taxing agencies upon the total sum of the assessed value of the taxable property in the redevelopment project as shown upon the assessment roll used in connection with the taxation of such property by such taxing agency, last equalized prior to the effective date of such ordinance, shall be allocated to, and when collected shall be paid into, the funds of the respective taxing agencies as taxes by or for said taxing agencies on all other property are paid (for the purpose of allocating taxes levied by or for any taxing agency or agencies which did not include the territory in a redevelopment project on the effective date of such

ordinance but to which such territory has been annexed or otherwise included after such effective date, the assessment roll of the county last equalized on the effective date of said ordinance shall be used in determining the assessed valuation of the taxable property in the project on said effective date); and

(b) That portion of said levied taxes each year in excess of such amount shall be allocated to and when collected shall be paid into a special fund of the redevelopment agency to pay the principal of and interest on loans, moneys advanced to, or indebtedness (whether funded, refunded, assumed or otherwise) incurred by such redevelopment agency to finance or refinance, in whole or in part, such redevelopment project. Unless and until the total assessed valuation of the taxable property in a redevelopment project exceeds the total assessed value of the taxable property in such project as shown by the last equalized assessment roll referred to in paragraph designated (a) hereof, all of the taxes levied and collected upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies. When said loans, advances, and indebtedness, if any, and interest thereon, have been paid, then all moneys thereafter received from taxes upon the taxable property in such redevelopment project shall be paid into the funds of the respective taxing agencies as taxes on all other property are paid.

The Legislature may also provide that in any redevelopment plan or in the proceedings for the advance of moneys, or making of loans, or the incurring of any indebtedness (whether funded, refunded, assumed or otherwise) by the redevelopment agency to finance or refinance, in whole or in part, the redevelopment project, the portion of taxes mentioned in paragraph designated (b) hereof may be irrevocably pledged for the payment of the principal of and interest on said loans, advances, or indebtedness.

It is intended by this section to empower any redevelopment agency, city, county, or city and county under any law authorized by this section to exercise the provisions hereof separately or in combination with powers granted by the same or any other law relative to redevelopment agencies. This section shall not affect any other law or laws relating to the same or a similar subject but is intended to authorize an alternative method of procedure governing the subject to which it refers.

All of the provisions of the Community Redevelopment Law, as amended in 1951, which relate to the use or pledge of taxes or portions thereof as herein provided, or which, if effective, would carry out the provisions of this section or any part thereof, are hereby approved, legalized, ratified and validated and made fully and completely effective and operative upon the effective date of this amendment.

The Legislature shall enact such laws as may be necessary to enforce the provisions of this section.

(New section adopted November 4, 1952.)

## ARTICLE XIV

### Water and Water Rights

#### *Use of Water—Rates*

SECTION 1. The use of all water now appropriated, or that may hereafter be appropriated, for sale, rental, or distribution, is hereby declared to be a public use, and subject to the regulation and control of the State, in the manner to be prescribed by law; provided, that the rates or compensation to be collected by any person, company, or corporation in this State, for the use of water supplied to any city and county, or city or town, or the inhabitants thereof, shall be fixed, annually, by the board of supervisors, or city and county, or city or town council, or other governing body of such city and county, or city or town, by ordinance or otherwise, in the manner that other ordinances or legislative acts or resolutions are passed by such body, and shall continue in force for one year and no longer.\* Such ordinances or resolutions shall be passed in the month of February of each year, and take effect on the first day of July thereafter. Any board or body failing to pass the necessary ordinances or resolutions fixing water rates, where necessary, within such time, shall be subject to peremptory process, to compel action at the suit of any party interested, and shall be liable to such further processes and penalties as the Legislature may prescribe. Any person, company, or corporation, collecting water rates in any city and county, or city or town in this State, otherwise than as so established, shall forfeit the franchises and waterworks of such person, company, or corporation, to the city and county, or city or town where the same are collected, for the public use.

#### *Franchise Requirement*

SEC. 2. The right to collect rates or compensation for the use of water supplied to any county, city and county, or town, or the inhabitants thereof, is a franchise, and cannot be exercised except by authority of and in the manner prescribed by law.

#### *Use of Water Resources—Riparian Rights*

SEC. 3. It is hereby declared that because of the conditions prevailing in this State the general welfare requires that the water resources of the State be put to beneficial use to the fullest extent of which they are capable, and that the waste or unreasonable use or unreasonable method of use of water be prevented, and that the conservation of such waters is to be exercised with a view to the reasonable and beneficial use thereof in the interest of the people and for the public welfare. The right to water or to the use or flow of water in or from any natural stream or water course in this State is and shall be limited to such water as shall be reasonably required for the beneficial use to be served, and such right does not and shall not extend to the waste or unreasonable use

\* See also Article XII, Section 23, page 166.

or unreasonable method of use or unreasonable method of diversion of water. Riparian rights in a stream or water course attach to, but to no more than so much of the flow thereof as may be required or used consistently with this section, for the purposes for which such lands are, or may be made adaptable, in view of such reasonable and beneficial uses; provided, however, that nothing herein contained shall be construed as depriving any riparian owner of the reasonable use of water of the stream to which his land is riparian under reasonable methods of diversion and use, or of depriving any appropriator of water to which he is lawfully entitled. This section shall be self-executing, and the Legislature may also enact laws in the furtherance of the policy in this section contained.

(New section adopted November 6, 1928.)

***Interest of Governmental Agencies—Conformance With State Laws***

SEC. 4. Whenever any agency of government, local, state, or federal, hereafter acquires any interest in real property in this State, the acceptance of the interest shall constitute an agreement by the agency to conform to the laws of California as to the acquisition, control, use, and distribution of water with respect to the land so acquired.

(New section adopted November 2, 1954.)

## ARTICLE XV

### **Harbor Frontages, Etc.**

***Frontages on Navigable Waters May Be Taken by Eminent Domain***

SECTION 1. The right of eminent domain is hereby declared to exist in the State to all frontages on the navigable waters of this State.

***People Shall Always Have Access to Navigable Waters***

SEC. 2. No individual, partnership, or corporation, claiming or possessing the frontage or tidal lands of a harbor, bay, inlet, estuary, or other navigable water in this State, shall be permitted to exclude the right of way to such water whenever it is required for any public purpose, nor to destroy or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of this State shall be always attainable for the people thereof.

***Tidelands Not to Pass Into Private Hands***

SEC. 3. All tidelands within two miles of any incorporated city or town in this State, and fronting on the waters of any harbor, estuary, bay, or inlet used for the purposes of navigation, shall be withheld from grant or sale to private persons, partnerships, or corporations.

## ARTICLE XVI

### State Indebtedness

#### *Incurring Indebtedness—Limitation*

SECTION 1. The Legislature shall not, in any manner create any debt or debts, liability or liabilities, which shall, singly or in the aggregate with any previous debts or liabilities, exceed the sum of three hundred thousand dollars (\$300,000), except in case of war to repel invasion or suppress insurrection, unless the same shall be authorized by law for some single object or work to be distinctly specified therein which law shall provide ways and means, exclusive of loans, for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt or liability within 50 years of the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged, and such law may make provision for a sinking fund to pay the principal of such debt or liability to commence at a time after the incurring of such debt or liability of not more than a period of one-fourth of the time of maturity of such debt or liability; but no such law shall take effect until, at a general election, it shall have been submitted to the people and shall have received a majority of all the votes cast for and against it at such election; and all moneys raised by authority of such law shall be applied only to the specific object therein stated or to the payment of the debt thereby created. Full publicity as to matters to be voted upon by the people is afforded by the setting out of the complete text of the proposed laws, together with the arguments for and against them, in the ballot pamphlet mailed to each elector preceding the election at which they are submitted, and the only requirement for publication of such law shall be that it be set out at length in ballot pamphlets which the Secretary of State shall cause to be printed. The Legislature may, at any time after the approval of such law by the people, reduce the amount of the indebtedness authorized by the law to an amount not less than the amount contracted at the time of the reduction, or it may repeal the law if no debt shall have been contracted in pursuance thereof.

(Amendment adopted November 6, 1956.)

#### **1919 Highway Bonds**

SEC. 2. Immediately upon the adoption of this section the State Treasurer shall prepare 40,000 suitable bonds of the State of California in the denomination of \$1,000 each, to be numbered from 1 to 40,000 inclusive, to bear a date not later than 30 days after said adoption and to bear interest at the rate of 4½ percent per annum from the date of said bonds, said interest to be payable on the third day of January and the third day of July of each and every year after the sale of said bonds, and said bonds to become due and payable in annual parcels of 1,000 bonds, commencing July 3, 1926, and ending July 3, 1965.

The provisions of the act of the Legislature approved May 20, 1915, known as the "State Highways Act of 1915," relative to the signing, countersigning, endorsing and sealing of the bonds therein provided for and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and officers of their respective duties in connection therewith as therein stated, and all other provisions, terms and conditions in said last-named act relating to the bonds therein mentioned, so far as the same shall be pertinent, shall be applicable to the preparation, issuance and sale of the bonds herein provided for, as herein contemplated.

Funds corresponding to those provided for in said act are hereby created, and payments into and out of the same shall be made as in said act provided, said funds to be designated respectively, "Third State Highway Fund," "Third State Highway Interest and Sinking Fund," "Third State Highway Revolving Fund," and "Third State Highway Sinking Fund"; and the State Treasurer shall on the first day of January, 1920, and on the first day of each July and the first day of each January thereafter transfer from the General Fund to the "Third State Highway Interest and Sinking Fund," and on the first day of July, 1926, and on the first day of July of each year thereafter, from the General Fund to the "Third State Highway Sinking Fund," the required moneys as provided in Section 5 of said act for the purposes therein stated but as applicable only to the bonds herein provided for and the interest thereon.

The moneys in said "Third State Highway Fund" shall be used by the State Department of Engineering for the acquisition of rights of way for and the acquisition, construction and improvement of uncompleted portions of the System of State Highways prescribed by the act of the Legislature approved May 22, 1909, known as the "State Highways Act," and the act of the Legislature approved May 20, 1915, and known as the "State Highways Act of 1915," and certain extensions thereof described in said last-named act, and also for the acquisition of the rights of way for and the acquisition, construction and improvement of the following additional highways as state highways: Barstow to Needles; Oxnard to San Juan Capistrano; Barstow to Mojave; Santa Maria to Bakersfield; Skyline Boulevard San Francisco to Santa Cruz; Rio Vista to Fairfield; Auburn to Verdi; Ukiah to Tahoe City; Crescent City to Oregon line; Santa Rosa to Shellville; Big Pine to Oasis; Placerville to Sportsman's Hall; Feather River Route Oroville to Quincy; General Grant National Park to Kings River Canyon; Calistoga to Lower Lake; Mecca to Blythe; Rumsey to Lower Lake; Azusa to Pine Flats in San Gabriel Canyon; La Canada via Arroyo Seco to Mount Wilson Road; Lancaster to Bailey's; Bakersfield via Walker's Pass to Freeman; McDonald's to the mouth of the Navarro River; Carmel to San Simeon; Klamath River State Highway Bridge to Coast State Highway; Susanville to Nevada state line; Pacheco Pass Road

into Hollister; Visalia to Sequoia Park line; Deep Creek easterly via Bear Valley Dam to the county road at Metcalf Creek in the Angeles National Forest; Orland to Chico; Tiburon to Alto; and county line near Michigan Bar via Huot's Ranch to Drytown. Said additional highways to be located on the most direct and practical routes; provided, however, that \$20,000,000 of the moneys in said "Third State Highway Fund," or so much of said \$20,000,000 as shall be necessary, shall be used for the completion of all of the system of state highways contemplated and provided for in said "State Highways Act" and in said "State Highways Act of 1915," and the extensions thereof specified in said last-named act.

The cost of acquisition and construction of the several extensions described in said "State Highways Act of 1915" shall hereafter be entirely borne by the State of California, it being the intention hereof to relieve the several counties from any further cooperation as contemplated by said "State Highways Act of 1915," but nothing herein shall prevent any county from contributing towards the cost of said extensions or of any other state highways at its option to such extent as it may desire under the provisions of any existing laws.

All provisions of Section 8 of said "State Highways Act of 1915," and of any amendment thereof, and any provisions of said act or of any amendment thereof, relating to the selection of routes, character of construction of highways, manner of conducting work thereon, powers and duties of officers in connection therewith, adoption of public highways as state highways, payment of principal and interest on any bonds and appropriation of money for payment thereof, and the keeping of records and making of statements and reports, and all provisions of Section 8 of the "State Highways Act," as amended May 19, 1915, and of Section 8 of the "State Highways Act of 1915," and of any amendment of either thereof, relating to the payment by counties of money for interest upon any bonds and the relief of counties from such payment, shall, so far as applicable, apply to the bonds herein authorized and all highways constructed hereunder.

All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action; and all expenses that shall be incurred by the State Treasurer in the preparation of bonds herein provided for and in the advertising and sale thereof and all expenses incurred by any officer in reference thereto shall be paid from the General Fund of the State. Nothing in this Constitution contained shall be a limitation upon the provisions of this section.

(New section adopted July 1, 1919. See Chapter 93, Statutes of 1919, for manner of submission to the people.)

#### **Highway Bonds—State Highway Finance Board**

SEC. 3. There is hereby created a State Highway Finance Board composed of the Governor, State Controller, State Treasurer, Chairman of the State Board of Control and Chairman of the California Highway

Commission, all of whom shall serve thereon without compensation and a majority of whom shall be empowered to act for said board. All of the 40,000 bonds authorized by Section 2 of Article XVI of this Constitution which shall have heretofore been sold shall be and constitute valid obligations of this State. All of said 40,000 bonds which shall remain unsold at the time of the adoption of this section shall be canceled and destroyed by the State Treasurer, and in lieu thereof bonds in the same amount shall be prepared and sold as hereinafter stated. Said State Highway Finance Board shall from time to time, so long as the bonds herein authorized remain unsold, determine when the same or any part thereof shall be sold, the number to be sold, the dates which the bonds so to be sold shall bear, and the interest rate thereon, which rate shall be fixed by said board according to the then prevailing market conditions but shall at no time exceed 6 percent per annum, and the determination of said board as to the rate of interest shall be conclusive as to the then prevailing market conditions. When requested by said board the State Treasurer shall prepare such number of bonds, so dated and bearing such interest rate thereon, all as so determined by said board, said bonds as to maturity dates thereof, form, place and method of payment of principal and interest thereon, and in all other particulars, being the same as authorized by said Section 2 of Article XVI, and as though the bonds herein authorized were the balance of said 40,000 bonds remaining unsold, and when so prepared said bonds shall be signed, countersigned, endorsed, sealed, sold and delivered, all as provided with respect to the bonds authorized by said Section 2 of Article XVI, but by the respective officers in office at the time such acts are required to be done. In the event that any bonds prepared as herein provided cannot in the judgment of said State Highway Finance Board be sold at the time fixed for the sale thereof or thereafter, said board may withdraw said bonds from sale and direct the State Treasurer to cancel and destroy the same, and may at said time or thereafter, at its option, direct the preparation and sale as hereinbefore provided, of the same or a different number of bonds, but not to exceed in all the amount herein authorized, and at the same or a different rate of interest but not to exceed 6 percent per annum. All of the provisions of said Section 2 of Article XVI, except those relating to the number of the bonds therein authorized, the date thereof and interest rate thereon, and except as herein otherwise provided, shall apply to and govern the bonds herein authorized, the use of the proceeds therefrom, and the several funds to be created and payments to be made into and out of the same, and in all respects said bonds herein authorized and the moneys derived from the sale thereof shall be governed and dealt with in the same manner, except as herein otherwise provided, as though the bonds herein authorized were the unsold portion of the 40,000 bonds authorized by said Section 2 of Article XVI.

Section 8 of the "State Highways Act" of 1909 as amended and approved by the electors November 7, 1916, Section 8 of the "State Highways Act" of 1915, Section 2 of Article XVI of the Constitution,

and this section, to the extent that the provisions of any of said sections require the payment into the State Treasury by the several counties of sums of money equal to the interest upon any money expended from the proceeds of the bonds issued under said acts and constitutional provisions respectively within those counties in the construction of state highways, shall on and after July 1, 1921, have no further force or effect; it being the intent of this provision that on and after said date the interest upon all bonds issued by the State for highway construction shall be paid exclusively by the State and that the counties shall thereafter be relieved from any obligation now or heretofore imposed to pay into the State Treasury any money by reason of any expenditures for previous or subsequent highway construction in said counties; but nothing in this section contained shall be construed to exempt or relieve any county from the payment into the State Treasury of any money due from it prior to said date under any of said provisions of any of said sections.

All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action; and all expenses that shall be incurred by the State Treasurer in the preparation of bonds herein provided for and in the advertising and sale thereof and all expenses incurred by any officer in reference thereto shall be paid from the General Fund of the State. Nothing in this Constitution contained, except as in this section provided, shall be a limitation upon the provisions of this section.

(New section adopted November 2, 1920. Initiative measure.)

#### **State and University Building Bonds**

SEC. 4. The issuance and sale of 8,500 bonds of the State of California in the denomination of \$1,000 each, and the use and disposition of the proceeds of the sale of said bonds, all as provided in the California State Buildings and State University Buildings Bonds Act of 1925, as passed by the Senate and Assembly at the Forty-sixth Session of the Legislature and approved by the Governor, authorizing the issuance and sale of state bonds in the sum of \$8,500,000 for the purpose of providing a fund for the completion and equipment of state buildings at Sacramento, for the erection and equipment of a State Building at Los Angeles, for the erection and equipment of a building or buildings for the University of California at Berkeley, and for the erection and equipment of a building or buildings for the University of California at Los Angeles, is hereby authorized and directed, and the said California State Buildings and State University Buildings Bonds Act of 1925 is hereby approved, adopted, legalized, validated and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section.

(New section adopted November 2, 1926.)

***State Construction Program Bonds***

SEC. 4½. The issuance and sale of bonds of the State of California in the sum of two hundred million dollars (\$200,000,000) and the use and disposition of the proceeds of the sale of said bonds, all as provided in the State Construction Program Bond Act of 1955 authorizing the issuance and sale of bonds for the purpose of providing a fund to be used to carry out the state construction program contemplated by that act, is hereby authorized and directed, and the State Construction Program Bond Act of 1955 is hereby approved, adopted, legalized, validated and made fully and completely effective; provided, that from the proceeds of the sale of said bonds, the sum of not less than sixty million dollars (\$60,000,000) shall be available for expenditure for major building construction, equipment and site acquisition for state colleges now or hereafter established. Nothing in this Constitution shall invalidate or restrict the provisions of this section, nor shall this section prevent amendments to the State Construction Program Bond Act of 1955 which are germane to the subject thereof; provided, such amendments do not increase the sum of the bonds herein authorized to be issued and sold nor utilize the proceeds thereof for purposes not related to the construction program generally described therein.

(New section adopted November 6, 1956.)

***California Olympiad Bonds***

SEC. 5. The issuance and sale of 1,000 bonds of the State of California in the denomination of \$1,000 each, and the use and disposition of the proceeds of the sale of said bonds, all as provided in the California Olympiad Bonds Act of 1927 as passed by the Senate and Assembly at the Forty-seventh Session of the Legislature and approved by the Governor, authorizing the issuance and sale of state bonds in the sum of \$1,000,000 for the purpose of providing a fund to be used and disbursed for the purpose of an Olympiad to be held in California in 1932, is hereby authorized and directed and the said California Olympiad Bond Act of 1927 is hereby approved, adopted, legalized, ratified, validated and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section.

(New section adopted November 6, 1928.)

***Veterans' Farm and Home Bonds (1949 Act)***

SEC. 6. The issuance and sale of bonds of the State of California, not exceeding in the aggregate the sum of one hundred million dollars (\$100,000,000), and the use and disposition of the proceeds of the sale of said bonds, all as provided in the Veterans Bond Act of 1949 (Article 5B added to Chapter 6 of Division 4 of the Military and Veterans Code by Chapter 1267 of the Statutes of 1949) authorizing

the issuance and sale of state bonds in the sum of one hundred million dollars (\$100,000,000) for the purpose of providing a fund to be used and disbursed to provide farm and home aid for veterans in accordance with the provisions of the Veterans Farm and Home Purchase Act of 1943, and of all acts amendatory thereof and supplemental thereto are hereby authorized and directed and said Veterans Bond Act of 1949 is hereby approved, adopted, legalized, ratified, validated, and made fully and completely effective upon the effective date of this amendment to the Constitution. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section.

(New section adopted June 6, 1950.)

#### **State Park Bonds**

SEC. 7. The issuance and sale of 6,000 bonds of the State of California in the denomination of \$1,000 each, and the use and disposition of the proceeds of the sale of said bonds, all as provided in the California State Park Bonds Act of 1927 as passed by the Senate and Assembly at the Forty-seventh Session of the Legislature and approved by the Governor, authorizing the issuance and sale of state bonds in the sum of \$6,000,000 for the purpose of providing a fund to be used and disbursed for the acquisition of lands and other properties in California for state park purposes, is hereby authorized and directed and the said California State Park Bond Act of 1927 is hereby approved, adopted, legalized, ratified, validated and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section.

(New section adopted November 6, 1928.)

#### **San Francisco Harbor Bonds**

SEC. 8. The issuance and sale of 10,000 bonds of the State of California in the denomination of \$1,000 each, and the use and disposition of the proceeds of the sale of said bonds, all as provided in the San Francisco Harbor Improvement Act of 1929, as passed by the Senate and Assembly at the Forty-eighth Session of the Legislature and approved by the Governor, authorizing the issuance and sale of state bonds in the sum of \$10,000,000 for the purpose of providing a fund for the construction in San Francisco Harbor of wharves, piers, seawalls, state railroad, spurs, betterments and appurtenances and for necessary dredging and filling in connection therewith and providing for the payment of the principal and interest of said bonds by the State Treasurer from revenues collected for dockage, tolls, rents, wharfage, craneage, demurrage, switching and any and all collections now or hereafter authorized

by law paid into the Fourth San Francisco Seawall Sinking Fund, is hereby authorized and the said San Francisco Harbor Improvement Act of 1929 is hereby approved, adopted, legalized, validated, and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this section contained shall be a limitation upon the provisions of this section.

(New section adopted November 4, 1930.)

#### ***Unemployment Relief Bond Act, 1933***

SEC. 9. The issuance and sale of bonds of the State of California and the use and disposition of the proceeds of the sale of said bonds, all as provided in the Unemployment Relief Bond Act of 1933 as passed by the Senate and Assembly at the Fiftieth Session of the Legislature and approved by the Governor, authorizing the issuance and sale of said bonds in the sum of \$20,000,000 for the purpose of providing a fund to be used and disbursed for the purpose of loans to counties and municipalities for unemployment relief, is hereby authorized and directed, and the said Unemployment Relief Bond Act of 1933 is hereby approved, adopted, legalized, ratified, validated and made fully and completely effective. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section.

(New section adopted June 27, 1933.)

#### ***Unemployment Relief Bonds, 1934***

SEC. 10. (a) In addition to moneys otherwise appropriated for the purposes hereinafter stated, the sum of \$24,000,000 to be made available by the creation of a debt or debts, liability or liabilities of the State of California and the issuance of bonds therefor is hereby appropriated to be expended for relief of hardship and destitution due to and caused by unemployment. The moneys hereby appropriated shall be expended prior to July 1, 1935, as grants by the State of California without repayment by any grantee.

#### ***Relief Administrator***

(b) A Relief Administrator shall be appointed by and hold office at the pleasure of the Governor. He shall receive such compensation as shall be fixed by the Governor until otherwise prescribed by law. He shall administer and direct the expenditure of all moneys hereby appropriated. In addition he may administer and direct the expenditure of all such funds as are made available for use within this State by the United States Government for relief of hardship and destitution due to and caused by unemployment.

**Relief Commission**

General policies for the guidance of relief administration shall be determined by a Relief Commission, which is hereby created. The commission shall consist of the State Director of Social Welfare, serving thereon ex officio, and eight members appointed by and holding office at the pleasure of the Governor. The members of the Relief Commission shall receive no salary for their services as members of such Relief Commission but shall receive their necessary traveling expenses. Not more than two members of the commission shall be residents of the same county or city and county and no person holding a salaried public office, other than the State Director of Social Welfare, may be a member of said commission.

**Relief Powers**

The administrator and the commission shall have and exercise such powers and duties respectively as may be prescribed by law. Until otherwise provided by law, the administrator and the commission respectively shall have and exercise the powers and duties in relation to the administration and direction of the expenditure of the moneys hereby appropriated as vested in the Emergency Relief Administrator and the State Emergency Relief Commission by the "Unemployment Relief Bond Act of 1933" in relation to the administration and direction of the expenditure of moneys appropriated by that act.

From and after the date when the administrator and members of the commission first appointed hereunder qualify, the administrator and commission hereby created shall succeed to and have and exercise the powers and duties, respectively, of the Emergency Relief Administrator and State Emergency Relief Commission mentioned in the "Unemployment Relief Bond Act of 1933," in respect to the administration of the provisions of said Act of 1933, and said administrator and commission mentioned in said Act of 1933 shall have no further legal existence.

**Citizens' Committees**

(c) For the purpose of assisting in the administration and in carrying out the purposes hereof and the policies and plans determined by said commission, the Relief Administrator may, with the consent and approval of the commission, appoint in each county and city and county a citizens' relief committee of such number, not exceeding 11, as the commission shall determine. The members of such committee shall serve without pay. The relief committee in each county and city and county shall have and exercise such powers and duties as may be prescribed by law and/or as may be prescribed by said commission.

**Federal Moneys**

(d) If, when and during such time as funds are provided or made available by the United States Government or any department, officer or agency thereof for relief of hardship and destitution due to and

caused by unemployment in this State, when added to the moneys hereby appropriated or otherwise provided by the State and made available for such purposes are or will, in the opinion of the Governor, be sufficient for relief of hardship and destitution due to and caused by unemployment in this State, the Governor may authorize the expenditure of such moneys for the purpose authorized by the United States Government or its department, officer or agency designated for that purpose in cooperation with the State Relief Administrator and the State Relief Commission, such moneys to be expended in accordance with the laws of the State of California.

#### Bonds

(e) For the purposes hereinabove specified bonds of the State in the aggregate principal sum of \$24,000,000 shall be issued and sold. Unless otherwise provided by law such bonds shall be prepared, advertised, issued and sold in the manner and by the officers authorized so to act by the "Unemployment Relief Bond Act of 1933," in connection with the bonds provided for in that act, except that the bonds issued under authority of this section shall be of such denomination not less than \$100 nor more than \$1,000 each as the State Treasurer shall determine, shall be in the form of serial bonds maturing in 10 equal annual installments, the first installment maturing not later than five years from date of issuance, shall bear interest at not exceeding the rate of 6 percent per annum payable semianually, both principal and interest being payable in lawful money of the United States, and the administrator and commission hereby created shall perform the duties and exercise the powers in that regard imposed by said Act of 1933 upon the administrator and commission therein mentioned. The proceeds of the sale of the bonds, including any sums paid as accrued interest thereon, shall be paid into the "Relief Fund," which fund is hereby created in the State Treasury, to be paid out in accordance with law.

#### State Debt

(f) The entire revenues of the State shall be applicable to the payment of such bonds. Out of said revenues there shall be set apart the money to be applied by the State to the payment of interest on said bonds and the principal amounts thereof as such bonds mature.

(g) The proceeds of the sale of said bonds may be used to pay the expense that may be incurred in preparing, advertising, issuing and selling the bonds, and in administering and directing the expenditure of the moneys hereby appropriated.

#### Civil Service

(h) Any person now employed under the "Unemployment Relief Bond Act of 1933," who has civil service status and who is continued in employment under this section or under any law adopted pursuant hereto shall retain his present civil service status. No other person employed under the provisions hereof or under any law adopted pursuant

hereto or performing relief work provided hereunder shall be included in the state civil service or be subject to the civil service laws of this State, but shall be exempt therefrom.

(i) The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section.

#### **Aged**

(j) Whenever the United States Government or any officer or agency thereof shall provide pensions or other aid for the aged, cooperation by the State therewith and therein is hereby authorized in such manner and to such extent as may be provided by law from funds other than funds provided for in subdivisions (a) and (e) of this section. Nothing contained in this subdivision (j) repeals, amends or modifies the Old Age Security Act of the State of California in any manner or in any respect whatsoever, and the power of the Legislature in this regard shall be the same in every respect as if this amendment to the Constitution had not been adopted.

#### **Local Expenditures**

(k) The money expended by any county, city and county, municipality, district or other political subdivision of this State made available under the provisions of this section shall not be considered as a part of the base for determining the maximum expenditure for any given year permissible under Section 20 of Article XI of this Constitution independent of the vote of the electors or authorization by the State Board of Equalization.

(New section adopted November 6, 1934.)

#### **Administration of Relief**

SEC. 11. Notwithstanding any provision of Section 10 of this article of the Constitution to the contrary, the Legislature has plenary power to provide for the administration of any constitutional provisions or laws heretofore or hereafter enacted concerning the administration of relief, and to that end may modify, transfer, or enlarge the powers vested in the Relief Administrator, the Relief Commission or any other state agency or officer concerned with the administration of relief or laws appertaining thereto. The Legislature, or the people by initiative, shall have power to amend, alter, or repeal any law relating to the relief of hardship and destitution, whether such hardship and destitution results from unemployment or from other causes, or to provide for the administration of the relief of hardship and destitution, whether resulting from unemployment or from other causes, either directly by the State or through the counties of the State, and to grant such aid to the counties therefor, or make such provision for reimbursement of the counties by the State, as the Legislature deems proper.

(New section adopted November 8, 1938.)

***Release of Encumbrances Given as Security for Aid to Aged***

SEC. 12. All liens, mortgages and other encumbrances heretofore taken by any county as security for aid granted to any aged person under the provisions of the Old Age Security Act of the State of California (Chapter 530 of the Statutes of 1929, as amended), or the Old Age Security Law (Chapter 1 of Division III of the Welfare and Institutions Code), are hereby released, and shall hereafter be conclusively presumed to have been paid.

The board of supervisors of each county shall immediately execute and record appropriate instruments of release of all such liens, mortgages or other encumbrances and shall take such other steps as may be necessary to relieve the real property of the recipients of aid heretofore granted to such persons under either or both of such statutes from all obligation to repay either to the county or to the State any such aid granted to or received by any such person.

The adoption of this section is intended to effectuate the full and complete discharge and release of all encumbrances of any kind whatsoever heretofore taken or imposed upon real property in connection with aid granted to any person under the above named statutes, insofar as such release and discharge may lawfully be effectuated and notwithstanding any other provision of this Constitution.

(New section adopted November 5, 1940.)

***Releasing All Rights and Encumbrances Taken as Security for Aid to Aged***

SEC. 13. (a) The people of the State of California, for themselves, for the State Government, and for every county and other agency of the Government of the State, do hereby abjure, renounce, and relinquish all rights and claims heretofore acquired by the State or any county or other agency of the State under the provisions of the Old Age Security Act of the State of California (Chapter 530 of the Statutes of 1929, as amended), or the Old Age Security Law (Chapter 1 of Division III of the Welfare and Institutions Code), or both, against the property of recipients of aid to the aged lawfully granted and received pursuant to said laws, or against such recipients personally, insofar as such rights and claims are based upon or arise out of liens, mortgages, transfers or other encumbrances taken by any county as security for aid granted pursuant to the provisions of said laws, or either of them, or are based upon or arise out of agreements not to transfer or encumber real property without the consent of the board of supervisors entered into pursuant to the provisions of Sections 2226 and 2229 of the Welfare and Institutions Code as added thereto by Chapter 719 of the Statutes of 1939;

***Presumption***

(b) All liens, mortgages, and other encumbrances heretofore taken by any county as security for aid granted under the aforesaid laws, or either of them, are hereby released, and shall hereafter be conclusively presumed to have been paid;

**Cancellations**

(c) Every agreement not to transfer or encumber real property without the consent of the board of supervisors heretofore executed pursuant to the provisions of Sections 2226 and 2229 of the Welfare and Institutions Code as added thereto by Chapter 719 of the Statutes of 1939 is hereby rescinded, canceled and declared to be hereafter of no force and effect, subject to the consent thereto of the applicant or recipient of aid, his legal representative, or successor in interest in the property concerning which the agreement was made. The failure of the applicant or recipient, his legal representative, or successor in interest, to cause to be recorded in the office of the county recorder within 30 days after this section becomes effective an instrument expressly withholding consent to the rescission and cancellation of any such agreement shall constitute consent thereto, and every such agreement, to the rescission and cancellation of which consent has not been expressly withheld, shall, from a date 30 days after this section becomes effective, be conclusively presumed to have been rescinded, canceled, and of no effect;

(d) The board of supervisors of each county shall immediately execute and record appropriate instruments of release or rescission and cancellation of all such liens, mortgages, encumbrances and agreements and shall take such other steps as may be necessary to relieve the recipients of aid heretofore granted to such persons under either or both of such statutes and the real property of the recipients from all obligation to repay either to the county or to the State any such aid lawfully granted to or received by any such person;

**Legislative Power**

(e) Notwithstanding any other provision of this Constitution, the Legislature shall have power to release, rescind, cancel, or otherwise nullify in whole or in part any encumbrance on property, personal obligation, or other form of security heretofore or hereafter exacted or imposed by the Legislature to secure the repayment to, or reimbursement of, the State, and the counties or other agencies of the State Government, of aid lawfully granted to and received by aged persons;

(f) Should an amendment to this Constitution by adding a new section to be numbered 12 to this article, as proposed by Assembly Constitutional Amendment No. 1 of the Fifty-third Session of the Legislature (Resolutions Chapter 58 of the Statutes of 1939), be enacted at the general election held on November 5, 1940, nothing in this section shall be construed to limit or restrict the operation of the provisions of said Section 12.

(New section adopted November 5, 1940.)

**SEC. 14. (No Section 14 has been adopted.)**

***School Bonds***

SEC. 15. Bonds of the State of California shall be prepared, issued, and sold in the amount of two hundred fifty million dollars (\$250,000,000), in such denominations, to be numbered, to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

***Use of Proceeds***

The proceeds of such bonds shall be used:

(a) To provide loans and grants to the several school districts of the State, subject to such legislation, rules, or regulations as the Legislature may, from time to time, determine.

(b) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

***Signing, Etc.***

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

***Necessary Laws***

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pursuant to this section by the State Allocations Board or a similar agency, and in that event, notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending before such board.

***Public Interest***

The people of the State of California in adopting this section hereby declare that it is in the interests of the State and of the people thereof for the State to aid school districts of the State in providing necessary and adequate school sites and buildings for the pupils of the Public School System, such system being a matter of general concern inasmuch as the education of the children of the State is an obligation and function of the State.

(New section adopted November 8, 1949.)

***Veterans Farm and Home Bonds***

SEC. 16. The issuance and sale of bonds of the State of California, not exceeding in the aggregate the sum of one hundred fifty million dollars (\$150,000,000), and the use and disposition of the proceeds of

the sale of said bonds, all as provided in the Veterans Bond Act of 1951 (Article 5C added to Chapter 6 of Division 4 of the Military and Veterans Code by Chapter 1086 of the Statutes of 1951) authorizing the issuance and sale of state bonds in the sum of one hundred fifty million dollars (\$150,000,000) for the purpose of providing a fund to be used and disbursed to provide farm and home aid for veterans in accordance with the provisions of the Veterans Farm and Home Purchase Act of 1943, and of all acts amendatory thereof and supplemental thereto are hereby authorized and directed and said Veterans Bond Act of 1951 is hereby approved, adopted, legalized, ratified, validated, and made fully and completely effective upon the effective date of this amendment to the Constitution. All provisions of this section shall be self-executing and shall not require any legislative action in furtherance thereof, but this shall not prevent such legislative action. Nothing in this Constitution contained shall be a limitation upon the provisions of this section.

(New section adopted November 4, 1952.)

#### **School Bonds—1952**

SEC. 16.5. Bonds of the State of California shall be prepared, issued, and sold in the amount of one hundred eighty-five million dollars (\$185,000,000), in such denominations, to be numbered, to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

The proceeds of such bonds shall be used:

(a) To provide loans and grants to the several school districts of the State, subject to such legislation, rules, or regulations as the Legislature may, from time to time determine.

(b) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

(c) To repay, as provided by law, the money appropriated from the General Fund at the 1952 Second Extraordinary Session for state school building aid.

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pursuant to this section by the State Allocations Board or a similar agency, and in that event, notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board

shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending before such board.

The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section to repay such money to the State on such terms and in such amounts as may be within the ability of the district to repay.

The people of the State of California in adopting this section hereby declare that it is in the interests of the State and of the people thereof for the State to aid school districts of the State in providing necessary and adequate school sites and buildings for the pupils of the Public School System, such system being a matter of general concern inasmuch as the education of the children of the State is an obligation and function of the State.

(New section adopted November 4, 1952.)

#### *School Bonds—1954*

SEC. 17. Bonds of the State of California shall be prepared, issued, and sold in the amount of one hundred million dollars (\$100,000,000), in such denominations, to be numbered, to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

The proceeds of such bonds shall be used:

(a) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts of the State for use in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning and constructing, reconstructing, repairing, altering, and making additions to, school buildings.

(b) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

The Legislature may appropriate money to be expended in addition to or in lieu of the money received from the sale of the bonds sold under the authority of this section. The money so appropriated shall be expended pursuant to subdivision (a) of this section. If the Legislature appropriates money in lieu of the money received from the sale of the bonds, the total amount of bonds required to be sold pursuant to this section shall be reduced by the amount so appropriated.

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pur-

suant to this section by the State Allocations Board or a similar agency and in that event, notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending before such board.

The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section to repay such money to the State on such terms and in such amounts as may be within the ability of the district to repay.

The people of the State of California in adopting this section hereby declare that it is in the interests of the State and of the people thereof for the State to aid school districts of the State in providing necessary school sites and buildings for the pupils of the Public School System, such system being a matter of general concern inasmuch as the education of the children of the State is an obligation and function of the State.

(New section adopted November 2, 1954.)

#### **School Bonds—1956**

SEC. 18. Bonds of the State of California shall be prepared, issued, and sold in the amount of one hundred million dollars (\$100,000,000), in such denominations, to be numbered, to bear such dates, and to bear such rate of interest as shall be determined by the Legislature.

The proceeds of such bonds shall be used:

(a) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts of the State for use in purchasing and improving school sites, the purchasing of furniture and equipment for schools, and the planning and constructing, reconstructing, repairing, altering, and making additions to, school buildings.

(b) Subject to such legislation as the Legislature may, from time to time, enact, to provide loans and grants to school districts for assistance in providing necessary housing and equipment for the education of physically handicapped minors and mentally retarded minors as those terms are defined in Chapters 9 and 11 of Division 4 of the Education Code.

(c) To pay the expenses that may be incurred in preparing, advertising, issuing, and selling the bonds, and in administering and directing the expenditure of the moneys realized from the sale of such bonds.

The issuance, signing, countersigning, endorsing, and selling of the bonds herein provided for, and the interest coupons thereon, the place and method of payment of principal and interest thereon, the procedure for initiating, advertising and holding sales thereof, and the performance by the several state boards and state officers of their respective duties in connection therewith; and all other provisions, terms, and conditions relating to the bonds, shall be as provided by the Legislature.

The Legislature may appropriate money to be expended in addition to or in lieu of the money received from the sale of the bonds sold

under the authority of this section. The money so appropriated shall be expended pursuant to subdivision (a) of this section. If the Legislature appropriates money in lieu of the money received from the sale of the bonds, the total amount of bonds required to be sold pursuant to this section shall be reduced by the amount so appropriated.

The Legislature shall pass all laws, general or special, necessary or convenient to carry into effect the provisions of this section. Such laws may provide for the allocation of funds to school districts pursuant to this section by the State Allocations Board or a similar agency and in that event, notwithstanding any other provision of this Constitution, Members of the Legislature who are required to meet with such board shall have equal rights and duties with the nonlegislative members to vote and act upon matters pending before such board.

The Legislature shall require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (a) of this section to repay such money to the State on such terms and in such amounts as may be within the ability of the district to repay.

The Legislature may require each district receiving an allocation of money from the sale of bonds pursuant to this section for the purposes prescribed in subdivision (b) of this section to repay such money to the State on such terms and in such amounts as the Legislature deems proper.

The people of the State of California in adopting this section hereby declare that it is in the interests of the State and of the people thereof for the State to aid school districts of the State in providing necessary school sites and buildings for the pupils of the Public School System, such system being a matter of general concern inasmuch as the education of the children of the State is an obligation and function of the State.

(New section adopted November 6, 1956.)

## ARTICLE XVII

### Land, and Homestead Exemption

#### *Homesteads to Be Protected*

SECTION 1. The Legislature shall protect, by law, from forced sale a certain portion of the homestead and other property of all heads of families.

(Constitution of 1849, Art. XI, Sec. 15, revised 1879.)

#### *Holding of Unimproved Lands Against Public Interest*

SEC. 2. The holding of large tracts of land, uncultivated and unimproved, by individuals or corporations, is against the public interest, and should be discouraged by all means not inconsistent with the rights of private property.

***State Lands Granted Only to Actual Settlers***

SEC. 3. Lands belonging to this State, which are suitable for cultivation, shall be granted only to actual settlers, and in quantities not exceeding 320 acres to each settler, under such conditions as shall be prescribed by law.

**ARTICLE XVIII****Amending and Revising the Constitution*****Constitutional Amendments***

SECTION 1. Any amendment or amendments to this Constitution may be proposed in the Senate or Assembly, and if two-thirds of all the members elected to each of the two houses shall vote in favor thereof, such proposed amendment or amendments shall be entered in their Journals, with the yeas and nays taken thereon; and it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people in such manner, and at such time, and after such publication as may be deemed expedient. Should more amendments than one be submitted at the same election they shall be so prepared and distinguished, by numbers or otherwise, that each can be voted on separately. If the people shall approve and ratify such amendment or amendments, or any of them, by a majority of the qualified electors voting thereon such amendment or amendments shall become a part of this Constitution.\*

(Constitution of 1849, Art. X, Sec. 1, revised 1879.)

***Constitutional Convention***

SEC. 2. Whenever two-thirds of the members elected to each branch of the Legislature shall deem it necessary to revise this Constitution, they shall recommend to the electors to vote at the next general election for or against a Convention for that purpose, and if a majority of the electors voting at such election on the proposition for a Convention shall vote in favor thereof, the Legislature shall, at its next session, provide by law for calling the same. The Convention shall consist of a number of delegates not to exceed that of both branches of the Legislature, who shall be chosen in the same manner, and have the same qualifications, as Members of the Legislature. The delegates so elected shall meet within three months after their election at such place as the Legislature may direct. At a special election to be provided for by law, the Constitution that may be agreed upon by such Convention shall be submitted to the people for their ratification or rejection, in such manner as the Convention may determine. The returns of such election shall,

\* An amendment to the Constitution of the State of California submitted by the Legislature takes effect on the date of its adoption by the people—*see Johnson vs. Wolf* (1929) 208 Cal. 286. For the effective date of an amendment submitted to the people by initiative petition, *see Article IV, Section 1.*

in such manner as the Convention shall direct, be certified to the Executive of the State, who shall call to his assistance the Controller, Treasurer, and Secretary of State, and compare the returns so certified to him; and it shall be the duty of the Executive to declare, by his proclamation, such Constitution, as may have been ratified by a majority of all the votes cast at such special election, to be the Constitution of the State of California.

(Constitution of 1849, Art. X, Sec. 2, revised 1879.)

## ARTICLE XIX

### Chinese

*Repealed November 4, 1952*

## ARTICLE XX

### Miscellaneous Subjects

#### *Sacramento Is Seat of Government*

SECTION 1. The City of Sacramento is hereby declared to be the seat of government of this State, and shall so remain until changed by law; but no law changing the seat of government shall be valid or binding, unless the same be approved and ratified by a majority of the qualified electors of the State voting therefor at a general state election, under such regulations and provisions as the Legislature, by a two-thirds vote of each house, may provide, submitting the question of change to the people.

(Constitution of 1849, Art. XI, Sec. 1, revised 1879.)

#### *Dueling Forbidden*

SEC. 2. Any citizen of this State who shall, after the adoption of this Constitution, fight a duel with deadly weapons, or send or accept a challenge to fight a duel with deadly weapons, either within this State or out of it, or who shall act as second, or knowingly aid or assist in any manner those thus offending, shall not be allowed to hold any office of profit, or to enjoy the right of suffrage under this Constitution.

(Constitution of 1849, Art. XI, Sec. 2.)

#### *Oath of Office*

SEC. 3. Members of the Legislature, and all public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, shall, before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation:

“I, -----, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution

of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.

"And I do further swear (or affirm) that I do not advocate, nor am I a member of any party or organization, political or otherwise, that now advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means; that within the five years immediately preceding the taking of this oath (or affirmation) I have not been a member of any party or organization, political or otherwise, that advocated the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means except as follows:

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(If no affiliations, write in the words "No Exceptions")

and that during such time as I hold the office of \_\_\_\_\_ I will not  
(name of office)  
advocate nor become a member of any party or organization, political or otherwise, that advocates the overthrow of the Government of the United States or of the State of California by force or violence or other unlawful means."

And no other oath, declaration, or test, shall be required as a qualification for any public office or employment.

"Public officer and employee" includes every officer and employee of the State, including the University of California, every county, city, city and county, district, and authority, including any department, division, bureau, board, commission, agency, or instrumentality of any of the foregoing.

(Amendment adopted November 4, 1952.)

#### ***Reinstatement of Officers and Employees Returning From Military Service***

SEC. 3.5. Notwithstanding any other provision of this Constitution, the Legislature by general law may provide for the reinstatement and re-entry into public office within the terms for which they were elected, and the reinstatement in public employment, respectively, of public officers and employees who have resigned or who resign their offices or employments to serve or to continue to serve in the armed forces of the United States or in the armed forces of this State. The Legislature may determine the extent to which such provisions shall be given retroactive effect.

As used in this section, "public officers and employees" includes all of the following:

- (a) Members of the Senate and of the Assembly.

(b) Justices of the Supreme Court and the district courts of appeal, judges of the superior courts and of the municipal courts, and all other judicial officers.

(c) All other state officers and employees, whether or not within the state civil service, including all officers for whose selection and term of office provision is made in the Constitution and laws of this State.

(d) All officers and employees of any county, city and county, city, township, district, political subdivision, authority, commission, board, or other public agency within this State.

Every person elected or appointed to any public office or employment within this State holds such office or employment subject to the right of re-entry or reinstatement which may be granted to a former holder of the office or employment pursuant to this section.

All laws enacted prior to the adoption of this section providing for the right of public officers and employees to re-enter office or to be reinstated in employment after service in the armed forces of the United States or of this State shall have the same force and effect as if they had been enacted after the adoption of this section.

(New section adopted November 7, 1944.)

#### ***Election and Appointment of Officers and Commissioners***

SEC. 4. All officers or commissioners whose election or appointment is not provided for by this Constitution, and all officers or commissioners whose offices or duties may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

(Constitution of 1849, Art. XI, Sec. 6, revised 1879.)

#### ***Fiscal Year***

SEC. 5. The fiscal year shall commence on the first day of July.

(Constitution of 1849, Art. XI, Sec. 8, revised 1879.)

#### ***Suits Against State***

SEC. 6. Suits may be brought against the State in such manner and in such courts as shall be directed by law.

(Constitution of 1849, Art. XI, Sec. 11, revised 1879.)

#### ***Marriage Contracts—Validity***

SEC. 7. No contract of marriage, if otherwise duly made, shall be invalidated for want of conformity to the requirements of any religious sect.

(Constitution of 1849, Art. XI, Sec. 12, revised 1879.)

#### ***Separate Property of Husband and Wife***

SEC. 8. All property, real and personal, owned by either husband or wife before marriage, and that acquired by either of them afterwards by gift, devise, or descent, shall be their separate property.

(Constitution of 1849, Art. XI, Sec. 14, revised 1879.)

***Perpetuities—Eleemosynary Purposes***

SEC. 9. No perpetuities shall be allowed except for eleemosynary purposes.

(Constitution of 1849, Art. XI, Sec. 16, revised 1879.)

***Disqualification From Office for Bribery***

SEC. 10. Every person shall be disqualified from holding any office of profit in this State who shall have been convicted of having given or offered a bribe to procure his election or appointment.

(Constitution of 1849, Art. XI, Sec. 17, revised 1879.)

***Misconduct in Office—Ineligibility to Hold Office—Free Suffrage***

SEC. 11. Laws shall be made to exclude from office, serving on juries, and from the right of suffrage, persons convicted of bribery, perjury, forgery, malfeasance in office, or other high crimes. The privilege of free suffrage shall be supported by laws regulating elections and prohibiting, under adequate penalties, all undue influence thereon from power, bribery, tumult, or other improper practice.

(Constitution of 1849, Art. XI, Sec. 18, revised 1879.)

***Absence as Affecting Residence \****

SEC. 12. Absence from this State, on business of the State or of the United States, shall not affect the question of residence of any person.

(Constitution of 1849, Art. XI, Sec. 19, revised 1879.)

***Election by Plurality—Municipal Regulations***

SEC. 13. A plurality of the votes given at any election shall constitute a choice where not otherwise directed in this Constitution, provided that it shall be competent in all charters of cities, counties or cities and counties framed under the authority of this Constitution to provide the manner in which their respective elective officers may be elected and to prescribe a higher proportion of the vote therefor, and provided also, that it shall be competent for the Legislature by general law to provide the manner in which officers of municipalities organized or incorporated under general laws may be elected and to prescribe a higher proportion of the vote therefor.

(Amendment adopted October 10, 1911.)

***State Board of Health***

SEC. 14. The Legislature shall provide, by law, for the maintenance and efficiency of a State Board of Health.

***Mechanics' Liens***

SEC. 15. Mechanics, material men, artisans, and laborers of every class, shall have a lien upon the property upon which they have bestowed labor or furnished material for the value of such labor done

\* See also Article II, Section 4, page 75.

and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

#### *Term of Office When Not Fixed by Constitution*

SEC. 16. When the term of any officer or commissioner is not provided for in this Constitution, the term of such officer or commissioner may be declared by law; and, if not so declared, such officer or commissioner shall hold his position as such officer or commissioner during the pleasure of the authority making the appointment; but in no case shall such term exceed four years; provided, however, that in the case of any officer or employee of any municipality governed under a legally adopted charter, the provisions of such charter with reference to the tenure of office or the dismissal from office of any such officer or employee shall control; and provided further, that the term of office of any person heretofore or hereafter appointed to hold office or employment during good behavior under civil service laws of the State or of any political division thereof shall not be limited by this section.

(Amendment adopted October 10, 1911.)

#### *Eight-hour Day on Public Work*

SEC. 17. The time of service of all laborers or workmen or mechanics employed upon any public works of the State of California, or of any county, city and county, city, town, district, township, or any other political subdivision thereof, whether said work is done by contract or otherwise, shall be limited and restricted to eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life and property, or except to work upon public, military, or naval works or defenses in time of war, and the Legislature shall provide by law that a stipulation to this effect shall be incorporated in all contracts for public work and prescribe proper penalties for the speedy and efficient enforcement of said law.

(Amendment adopted November 4, 1902.)

#### *Minimum Wages for Women and Minors—Labor Legislation*

SEC. 17½. The Legislature may, by appropriate legislation, provide for the establishment of a minimum wage for women and minors and may provide for the comfort, health, safety and general welfare of any and all employees. No provision of this Constitution shall be construed as a limitation upon the authority of the Legislature to confer upon any commission now or hereafter created, such power and authority as the Legislature may deem requisite to carry out the provisions of this section.

(New section adopted November 3, 1914.)

#### *Sex Not a Disqualification for Business*

SEC. 18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

**Payment of Expenses of Convention**

SEC. 19. *Section repealed November 8, 1949.*

**Subversive Persons and Groups**

SEC. 19. Notwithstanding any other provision of this Constitution, no person or organization which advocates the overthrow of the Government of the United States or the State by force or violence or other unlawful means or who advocates the support of a foreign government against the United States in the event of hostilities shall:

(a) Hold any office or employment under this State, including but not limited to the University of California, or with any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State; or

(b) Receive any exemption from any tax imposed by this State or any county, city or county, city, district, political subdivision, authority, board, bureau, commission or other public agency of this State.

The Legislature shall enact such laws as may be necessary to enforce the provisions of this section.

(New section adopted November 4, 1952.)

**State Officers—Time of Elections—Commencement of Terms**

SEC. 20. Elections of the officers provided for by this Constitution, except at the election in the year 1879, shall be held on the even numbered years next before the expiration of their respective terms. The terms of such officers shall commence on the first Monday after the first day of January next following their election.

**Workmen's Compensation—Labor Disputes**

SEC. 21. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workmen's compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workmen for injury or disability, and their dependents for death incurred or sustained by the said workmen in the course of their employment, irrespective of the fault of any party. A complete system of workmen's compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workmen and those dependent upon them for support to the extent of relieving from the consequences of any injury or death incurred or sustained by workmen in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management

of a State Compensation Insurance Fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the State Government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an Industrial Accident Commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workmen's compensation, as herein defined.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the Industrial Accident Commission of this State or the State Compensation Insurance Fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed.

(Amendment adopted November 5, 1918.)

#### ***Intoxicating Liquors—Liquor Control***

(Another section of the same number was added in 1934 by initiative. See page 213.)

SEC. 22. The State of California, subject to the Internal Revenue Laws of the United States, shall have the exclusive right and power to license and regulate the manufacture, sale, purchase, possession and transportation of alcoholic beverages within the State, and subject to the laws of the United States regulating commerce between foreign nations and among the states shall have the exclusive right and power to regulate the importation into and exportation from the State, of alcoholic beverages. In the exercise of these rights and powers, the Legislature shall not constitute the State or any agency thereof a manufacturer or seller of alcoholic beverages.

#### ***Licensed Premises—Types of Licenses***

All alcoholic beverages may be bought, sold, served, consumed and otherwise disposed of in premises which shall be licensed as provided by the Legislature. In providing for the licensing of premises, the Legislature may provide for the issuance of, among other licenses, licenses for the following types of premises where the alcoholic bever-

ages specified in the licenses may be sold and served for consumption upon the premises:

- (a) For bona fide public eating places, as defined by the Legislature.
- (b) For public premises in which food shall not be sold or served as in a bona fide public eating place, but upon which premises the Legislature may permit the sale or service of food products incidental to the sale and service of alcoholic beverages. No person under the age of 21 years shall be permitted to enter and remain in any such premises without lawful business therein.
- (c) For public premises for the sale and service of beers alone.
- (d) Under such conditions as the Legislature may impose, for railroad dining or club cars, passenger ships, common carriers by air, and bona fide clubs after such clubs have been lawfully operated for not less than one year.

#### **Service or Sale to Minors**

The sale, furnishing, giving, or causing to be sold, furnished, or giving away of any alcoholic beverage to any person under the age of 21 years is hereby prohibited, and no person shall sell, furnish, give, or cause to be sold, furnished, or given away any alcoholic beverage to any person under the age of 21 years, and no person under the age of 21 years shall purchase any alcoholic beverage.

#### **Director of Alcoholic Beverage Control**

The Director of Alcoholic Beverage Control shall be the head of the Department of Alcoholic Beverage Control, shall be appointed by the Governor subject to confirmation by a majority vote of all of the members elected to the Senate, and shall serve at the pleasure of the Governor. The director may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove the director from office for dereliction of duty or corruption or incompetency. The director may appoint three persons who shall be exempt from civil service, in addition to the person he is authorized to appoint by Section 4 of Article XXIV.

#### **Department of Alcoholic Beverage Control—Powers—Duties**

The Department of Alcoholic Beverage Control shall have the exclusive power, except as herein provided and in accordance with laws enacted by the Legislature, to license the manufacture, importation and sale of alcoholic beverages in this State, and to collect license fees or occupation taxes on account thereof. The department shall have the power, in its discretion, to deny, suspend or revoke any specific alcoholic beverages license if it shall determine for good cause that the granting or continuance of such license would be contrary to public welfare or morals, or that a person seeking or holding a license has violated any law prohibiting conduct involving moral turpitude. It shall be unlawful for any person other than a licensee of said department to manufacture, import or sell alcoholic beverages in this State.

***Alcoholic Beverage Control Appeals Board***

The Alcoholic Beverage Control Appeals Board shall consist of three members appointed by the Governor, subject to confirmation by a majority vote of all of the members elected to the Senate. Each member, at the time of his initial appointment, shall be a resident of a different county from the one in which either of the other members resides. The members of the board may be removed from office by the Governor, and the Legislature shall have the power, by a majority vote of all members elected to each house, to remove any member from office for dereliction of duty or corruption or incompetency.

***Appeals—Reviews—Reversals***

When any person aggrieved thereby appeals from a decision of the department ordering any penalty assessment, issuing, denying, transferring, suspending or revoking any license for the manufacture, importation, or sale of alcoholic beverages, the board shall review the decision subject to such limitations as may be imposed by the Legislature. In such cases, the board shall not receive evidence in addition to that considered by the department. Review by the board of a decision of the department shall be limited to the questions whether the department has proceeded without or in excess of its jurisdiction, whether the department has proceeded in the manner required by law, whether the decision is supported by the findings, and whether the findings are supported by substantial evidence in the light of the whole record. In appeals where the board finds that there is relevant evidence which, in the exercise of reasonable diligence, could not have been produced or which was improperly excluded at the hearing before the department it may enter an order remanding the matter to the department for reconsideration in the light of such evidence. In all other appeals the board shall enter an order either affirming or reversing the decision of the department. When the order reverses the decision of the department, the board may direct the reconsideration of the matter in the light of its order and may direct the department to take such further action as is specially enjoined upon it by law, but the order shall not limit or control in any way the discretion vested by law in the department. Orders of the board shall be subject to judicial review upon petition of the director or any party aggrieved by such order.

***Removal of Director or Board Members***

A concurrent resolution for the removal of either the director or any member of the board may be introduced in the Legislature only if five Members of the Senate, or 10 Members of the Assembly, join as authors.

***Licenses—Regulation—Fees***

Until the Legislature shall otherwise provide, the privilege of keeping, buying, selling, serving, and otherwise disposing of alcoholic beverages in bona fide hotels, restaurants, cafes, cafeterias, railroad dining

or club cars, passenger ships, and other public eating places, and in bona fide clubs after such clubs have been lawfully operated for not less than one year, and the privilege of keeping, buying, selling, serving, and otherwise disposing of beers on any premises open to the general public shall be licensed and regulated under the applicable provisions of the Alcoholic Beverage Control Act, insofar as the same are not inconsistent with the provisions hereof, and excepting that the license fee to be charged bona fide hotels, restaurants, cafes, cafeterias, railroad dining or club cars, passenger ships, and other public eating places, and any bona fide clubs after such clubs have been lawfully operated for not less than one year, for the privilege of keeping, buying, selling, or otherwise disposing of alcoholic beverages, shall be the amounts prescribed as of the operative date hereof, subject to the power of the Legislature to change such fees.

The State Board of Equalization shall assess and collect such excise taxes as are or may be imposed by the Legislature on account of the manufacture, importation and sale of alcoholic beverages in this State.

The Legislature may authorize, subject to reasonable restrictions, the sale in retail stores of alcoholic beverages contained in the original packages, where such alcoholic beverages are not to be consumed on the premises where sold; and may provide for the issuance of all types of licenses necessary to carry on the activities referred to in the first paragraph of this section, including, but not limited to, licenses necessary for the manufacture, production, processing, importation, exportation, transportation, wholesaling, distribution, and sale of any and all kinds of alcoholic beverages.

The Legislature shall provide for apportioning the amounts collected for license fees or occupation taxes under the provisions hereof between the State and the cities, counties and cities and counties of the State, in such manner as the Legislature may deem proper.

All constitutional provisions and laws inconsistent with the provisions hereof are hereby repealed.

The provisions of this section shall be self-executing, but nothing herein shall prohibit the Legislature from enacting laws implementing and not inconsistent with such provisions.

#### **Effective Date**

This amendment shall become operative on January 1, 1957.

(Amendment adopted November 6, 1956.)

#### **Rate of Interest—Usury**

(An earlier section of this number was also adopted in 1934 (initiative measure) and amended in 1956. See preceding section.)

SEC. 22. The rate of interest upon the loan or forbearance of any money, goods or things in action, or on accounts after demand or judgment rendered in any court of the State, shall be 7 percent per annum but it shall be competent for the parties to any loan or forbearance of

any money, goods or things in action to contract in writing for a rate of interest not exceeding 10 percent per annum.

#### Charges

No person, association, copartnership or corporation shall by charging any fee, bonus, commission, discount or other compensation receive from a borrower more than 10 percent per annum upon any loan or forbearance of any money, goods or things in action.

#### Exemptions

However, none of the above restrictions shall apply to any building and loan association as defined in and which is operated under that certain act known as the "Building and Loan Association Act," approved May 5, 1931, as amended, or to any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining industrial loan companies, providing for their incorporation, powers and supervision," approved May 18, 1917, as amended, or any corporation incorporated in the manner prescribed in and operating under that certain act entitled "An act defining credit unions, providing for their incorporation, powers, management and supervision," approved March 31, 1927, as amended or any duly licensed pawnbroker or personal property broker, or any bank as defined in and operating under that certain act known as the "Bank Act," approved March 1, 1909, as amended, or any bank created and operating under and pursuant to any laws of this State or of the United States of America or any nonprofit cooperative association organized under Chapter 4 of Division VI of the Agricultural Code in loaning or advancing money in connection with any activity mentioned in said title or any corporation, association, syndicate, joint stock company, or partnership engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry and bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business or any corporation securing money or credit from any federal intermediate credit bank, organized and existing pursuant to the provisions of an act of Congress entitled "Agricultural Credits Act of 1923," as amended in loaning or advancing credit so secured, nor shall any such charge of any said exempted classes of persons be considered in any action or for any purpose as increasing or affecting or as connected with the rate of interest hereinbefore fixed. The Legislature may from time to time prescribe the maximum rate per annum of, or provide for the supervision, or the filing of a schedule of, or in any manner fix, regulate or limit, the fees, bonus, commissions, discounts or other compensation which all or any of the said exempted classes of persons may charge or receive from a borrower in connection with any loan or forbearance of any money, goods or things in action.

The provisions of this section shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith.

(New section adopted November 6, 1934.)

## ARTICLE XXI

### Boundary

#### *Boundary of the State of California*

SECTION 1. The boundary of the State of California shall be as follows: Commencing at the point of intersection of the forty-second degree of north latitude with the one hundred and twentieth degree of longitude west from Greenwich, and running south on the line of said one hundred and twentieth degree of west longitude until it intersects the thirty-ninth degree of north latitude; thence running in a straight line, in a southeasterly direction, to the River Colorado, at a point where it intersects the thirty-fifth degree of north latitude; thence down the middle of the channel of said river to the boundary line between the United States and Mexico, as established by the treaty of May 30, 1848 \*; thence running west and along said boundary line to the Pacific Ocean, and extending therein three English miles; thence running in a northwesterly direction and following the direction of the Pacific Coast to the forty-second degree of north latitude; thence on the line of said forty-second degree of north latitude to the place of beginning. Also, including all the islands, harbors, and bays along and adjacent to the coast.

(Constitution of 1849, Art. XII, Sec. 1, revised 1879.)

#### *State Boundaries*

SEC. 2. The Legislature, in cooperation with the properly constituted authority of any adjoining state, is empowered to change, alter, and redefine the state boundaries, such change, alteration and redefinition to become effective only upon approval of the Congress of the United States. The Legislature, in connection with such change, alteration or redefinition of boundaries may provide for and deal with all matters involving the taxation or the exemption from taxation of any real or personal property involved in, or affected by, such change, alteration or redefinition of boundaries.

(New section adopted November 6, 1956.)

## ARTICLE XXII

### Schedule

That no inconvenience may arise from the alterations and amendments in the Constitution of this State, and to carry the same into complete effect, it is hereby ordained and declared:

\* See 1 Malloy, Treaties, 1107.

**Laws to Remain in Force**

SECTION 1. That all laws in force at the adoption of this Constitution, not inconsistent therewith, shall remain in full force and effect until altered or repealed by the Legislature; and all rights, actions, prosecutions, claims, and contracts of the State, counties, individuals, or bodies corporate, not inconsistent therewith, shall continue to be as valid as if this Constitution had not been adopted. The provisions of all laws which are inconsistent with this Constitution shall cease upon the adoption thereof, except that all laws which are inconsistent with such provisions of this Constitution as require legislation to enforce them shall remain in full force until the first day of July, 1880, unless sooner altered or repealed by the Legislature.

**Existing Obligations and Pending Suits**

SEC. 2. That all recognizances, obligations, and all other instruments, entered into or executed before the adoption of this Constitution, to this State, or to any subdivision thereof, or any municipality therein, and all fines, taxes, penalties, and forfeitures due or owing to this State, or any subdivision or municipality thereof, and all writs, prosecutions, actions, and causes of action, except as herein otherwise provided, shall continue and remain unaffected by the adoption of this Constitution. All indictments or informations which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon as if no change had taken place, except as otherwise provided in this Constitution.

**Courts Abolished—Records Transferred**

SEC. 3. All courts now existing, save justices' and police courts, are hereby abolished; and all records, books, papers, and proceedings from such courts, as are abolished by this Constitution, shall be transferred on the first day of January, 1880, to the courts provided for in this Constitution; and the courts to which the same are thus transferred shall have the same power and jurisdiction over them as if they had been in the first instance commenced, filed, or lodged therein.

**Constitution to Be Printed and Election Proclaimed**

SEC. 4. *Section repealed November 8, 1949.*

**Ballots to Be Prepared**

SEC. 5. *Section repealed November 8, 1949.*

**Registers, Poll Books, Etc., Provided**

SEC. 6. *Section repealed November 8, 1949.*

**Who to Vote**

SEC. 7. *Section repealed November 8, 1949.*

**Canvass of Returns**

SEC. 8. *Section repealed November 8, 1949.*

**Computation of Returns and Proclamation**

SEC. 9. *Section repealed November 8, 1949.*

**Terms of Officers First Elected**

SEC. 10. In order that future elections in this State shall conform to the requirements of this Constitution, the terms of all officers elected at the first election under the same shall be, respectively, one year shorter than the terms as fixed by law or by this Constitution; and the successors of all such officers shall be elected at the last election before the expiration of the terms as in this section provided. The first officers chosen after the adoption of this Constitution shall be elected at the time and in the manner now provided by law. Judicial officers and the Superintendent of Public Instruction shall be elected at the time and in the manner that state officers are elected.

**Existing Laws Relative to Judicial System Continued**

SEC. 11. All laws relative to the present Judicial System of the State shall be applicable to the Judicial System created by this Constitution until changed by legislation.

**Effective Date of Constitution**

SEC. 12. This Constitution shall take effect and be in force on and after the fourth day of July, 1879, at 12 o'clock meridian, so far as the same relates to the election of all officers, the commencement of their terms of office and the meeting of the Legislature. In all other respects, and for all other purposes, this Constitution shall take effect on the first day of January, 1880, at 12 o'clock meridian.

**ARTICLE XXIII \*****Recall of Public Officers****Officers Subject to Recall**

SECTION 1. Every elective public officer of the State of California may be removed from office at any time by the electors entitled to vote for a successor of such incumbent, through the procedure and in the manner herein provided for, which procedure shall be known as the recall, and is in addition to any other method of removal provided by law.

**Recall Petition**

The procedure hereunder to effect the removal of an incumbent of an elective public office shall be as follows: A petition signed by electors entitled to vote for a successor of the incumbent sought to be removed,

\* New article adopted October 10, 1911.

equal in number to at least 12 percent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies (provided that if the officer sought to be removed is a state officer who is elected in any political subdivision of the State, said petition shall be signed by electors entitled to vote for a successor to the incumbent sought to be removed, equal in number to at least 20 percent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies) demanding an election of a successor to the officer named in said petition, shall be addressed to the Secretary of State and filed with the clerk, or registrar of voters, of the county or city and county in which the petition was circulated; provided that if the officer sought to be removed was elected in the State at large such petition shall be circulated in not less than five counties of the State, and shall be signed in each of such counties by electors equal in number to not less than 1 percent of the entire vote cast, in each of said counties, at said election, as above estimated. Such petition shall contain a general statement of the grounds on which the removal is sought, which statement is intended solely for the information of the electors, and the sufficiency of which shall not be open to review.

#### **Election Date**

When such petition is certified as is herein provided to the Secretary of State, he shall forthwith submit the said petition, together with a certificate of its sufficiency, to the Governor, who shall thereupon order and fix a date for holding the election, not less than 60 days nor more than 80 days from the date of such certificate of the Secretary of State.

#### **Recall Election**

The Governor shall make or cause to be made publication of notice for the holding of such election, and officers charged by law with duties concerning elections shall make all arrangements for such election and the same shall be conducted, returned, and the result thereof declared, in all respects as are other state elections. On the official ballot at such election shall be printed, in not more than 200 words, the reasons set forth in the petition for demanding his recall. And in not more than 300 words there shall also be printed, if desired by him, the officer's justification of his course in office. Proceedings for the recall of any officer shall be deemed to be pending from the date of the filing with any county, or city and county clerk, or registrar of voters, of any recall petition against such officer; and if such officer shall resign at any time subsequent to the filing thereof, the recall election shall be held notwithstanding such resignation, and the vacancy caused by such resignation, or from any other cause, shall be filled as provided by law, but the person appointed to fill such vacancy shall hold his office only until the person elected at the said recall election shall qualify.

**Nominations**

Any person may be nominated for the office which is to be filled at any recall election by a petition signed by electors, qualified to vote at such recall election, equal in number to at least 1 percent of the total number of votes cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Each such nominating petition shall be filed with the Secretary of State not less than 25 days before such recall election.

**Ballot**

There shall be printed on the recall ballot, as to every officer whose recall is to be voted on thereat, the following question: "Shall (name of person against whom the recall petition is filed) be recalled from the office of (title of the office)?", following which question shall be the words "Yes" and "No" on separate lines, with a blank space at the right of each, in which the voter shall indicate, by stamping a cross (+), his vote for or against such recall. On such ballots, under each such question, there shall also be printed the names of those persons who have been nominated as candidates to succeed the person recalled, in case he shall be removed from office by said recall election; but no vote cast shall be counted for any candidate for said office unless the voter also voted on said question of the recall of the person sought to be recalled from said office. The name of the person against whom the petition is filed shall not appear on the ballot as a candidate for the office. If a majority of those voting on said question of the recall of any incumbent from office shall vote "No," said incumbent shall continue in said office. If a majority shall vote "Yes," said incumbent shall thereupon be deemed removed from such office, upon the qualification of his successor. The canvassers shall canvass all votes for candidates for said office and declare the result in like manner as in a regular election. If the vote at any such recall election shall recall the officer, then the candidate who has received the highest number of votes for the office shall be thereby declared elected, for the remainder of the term. In case the person who received the highest number of votes shall fail to qualify within 10 days after receiving the certificate of election, the office shall be deemed vacant and shall be filled according to law.

**Petitions**

Any recall petition may be presented in sections, but each section shall contain a full and accurate copy of the title and text of the petition. Each signer shall add to his signature his place of residence, giving the street and number, if such exist. His election precinct shall also appear on the paper after his name. The number of signatures appended to each section shall be at the pleasure of the person soliciting signatures to the same. Any qualified elector of the State shall be competent to solicit such signatures within the county, or city and county, of which he is an elector. Each section of the petition shall bear the name of the county, or city and county in which it is circulated, and only

qualified electors of such county or city and county shall be competent to sign such section. Each section shall have attached thereto the affidavit of the person soliciting signatures to the same stating his qualifications and that all the signatures to the attached section were made in his presence and that to the best of his knowledge and belief each signature to the section is the genuine signature of the person whose name it purports to be; and no other affidavit thereto shall be required. The affidavit of any person soliciting signatures hereunder shall be verified free of charge by any officer authorized to administer an oath. Such petition so verified shall be *prima facie* evidence that the signatures thereto appended are genuine and that the persons signing the same are qualified electors. Unless and until it is otherwise proven upon official investigation, it shall be presumed that the petition presented contains the signatures of the requisite number of electors. Each section of the petition shall be filed with the clerk, or registrar of voters, of the county or city and county in which it was circulated; but all such sections circulated in any county or city and county shall be filed at the same time. Within 20 days after the date of filing such petition, the clerk, or registrar of voters, shall finally determine from the records of registration what number of qualified electors have signed the same; and, if necessary, the board of supervisors shall allow such clerk or registrar additional assistants for the purpose of examining such petition and provide for their compensation. The said clerk or registrar, upon the completion of such examination, shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and submit said petition, except as to the signatures appended thereto, to the Secretary of State and file a copy of said certificate in his office. Within 40 days from the transmission of the said petition and certificate by the clerk or registrar of voters to the Secretary of State, a supplemental petition, identical with the original as to the body of the petition but containing supplemental names, may be filed with the clerk or registrar of voters, as aforesaid. The clerk or registrar of voters shall within 10 days after the filing of such supplemental petition make like examination thereof as of the original petition, and upon the conclusion of such examination shall forthwith attach to such petition his certificate, properly dated, showing the result of such examination, and shall forthwith transmit such supplemental petition, except as to the signatures thereon, together with his said certificate, to the Secretary of State.

#### *Qualification of Petition*

When the Secretary of State shall have received from one or more county clerks, or registrars of voters, a petition certified as herein provided to have been signed by the requisite number of qualified electors, he shall forthwith transmit to the county clerk or registrar of voters of every county or city and county in the State a certificate showing such fact; and such clerk or registrar of voters shall thereupon file said certificate for record in his office.

A petition shall be deemed to be filed with the Secretary of State upon the date of the receipt by him of a certificate or certificates showing the said petition to be signed by the requisite number of electors of the State.

#### *Limitations on Recall*

No recall petition shall be circulated or filed against any officer until he has actually held his office for at least six months; save and except it may be filed against any Member of the State Legislature at any time after five days from the convening and organizing of the Legislature after his election.

#### *Expenses*

If at any recall election the incumbent whose removal is sought is not recalled, he shall be repaid from the State Treasury any amount legally expended by him as expenses of such election, and the Legislature shall provide appropriation for such purpose, and no proceedings for another recall election of said incumbent shall be initiated within six months after such election.

#### *Substitute Officials*

If the Governor is sought to be removed under the provisions of this article, the duties herein imposed upon him shall be performed by the Lieutenant Governor \*; and if the Secretary of State is sought to be removed, the duties herein imposed upon him shall be performed by the State Controller; and the duties herein imposed upon the clerk or registrar of voters, shall be performed by such registrar of voters in all cases where the office of registrar of voters exists.

#### *Recall in Cities and Counties*

The recall shall also be exercised by the electors of each county, city and county, city and town of the State, with reference to the elective officers thereof, under such procedure as shall be provided by law.

Until otherwise provided by law, the legislative body of any such county, city and county, city or town may provide for the manner of exercising such recall powers in such counties, cities and counties, cities and towns, but shall not require any such recall petition to be signed by electors more in number than 25 percent of the entire vote cast at the last preceding election for all candidates for the office which the incumbent sought to be removed occupies. Nothing herein contained shall be construed as affecting or limiting the present or future powers of cities or counties or cities and counties having charters adopted under the authority given by the Constitution.

#### *General Laws*

In the submission to the electors of any petition proposed under this article all officers shall be guided by the general laws of the State, except as otherwise herein provided.

\* See also Article V, Section 16, page 106.

This article is self-executing, but legislation may be enacted to facilitate its operation, but in no way limiting or restricting the provisions of this article or the powers herein reserved.

(New article adopted October 10, 1911.)

## ARTICLE XXIV \*

### State Civil Service

#### ***Appointments and Promotions in State Civil Service—Merit System***

SECTION 1. Permanent appointments and promotion in the state civil service shall be made exclusively under a general system based upon merit, efficiency and fitness as ascertained by competitive examination.

(New section adopted November 6, 1934. Initiative measure.)

#### ***State Personnel Board***

SEC. 2. (a) Between the effective date hereof and January 15, 1935, there shall be a State Personnel Board of three members consisting of the Director of Finance, the Controller and the Legislative Counsel of this State. Subsequent to January 15, 1935, there shall be a State Personnel Board of five members appointed by the Governor with the advice and consent of the Senate except that the Director of Finance shall serve *ex officio* as one such member until January 15, 1937, or until his successor is appointed and qualified, the Legislative Counsel shall serve *ex officio* as one such member until January 15, 1939, or until his successor is appointed and qualified, and the Controller shall serve *ex officio* as one such member until January 15, 1941, or until his successor is appointed and qualified. The first two members appointed by the Governor shall classify themselves by lot so that one shall go out of office at the end of eight years and one at the end of 10 years from and after January 15, 1935. Each subsequent appointee shall hold office for 10 years from the expiration of the term of his predecessor and until his successor is appointed and qualified, except that an appointment to a vacancy occurring before the expiration of a term shall be but for the remainder of that term. A member other than an *ex officio* member may be removed by a vote of two-thirds of the members elected to each house of the Legislature. The Legislature, by majority vote of each house, may at any time prior to January 15, 1939, appoint any person of its choice to serve at its pleasure as a member of said board in lieu of the Legislative Counsel, until January 15, 1939.

(b) The board shall annually elect one of its members president.

(c) The board shall appoint and fix the compensation of an executive officer who shall be a member of the state civil service but not a member of the board.

\* New article adopted November 6, 1934. Initiative measure.

**Executive Officer**

Said executive officer shall perform and discharge all of the powers, duties, purposes, functions and jurisdiction hereunder or which hereafter by law may be vested in the board except that the adoption of rules and regulations, the creation and adjustment of classifications and grades, and dismissals, demotions, suspensions and other punitive action for or in the state civil service shall be and remain the duty of the board and a vote of a majority of the members of said board shall be required to make any action with respect thereto effective.

(New section adopted November 6, 1934. Initiative measure.)

**Powers of Board to Enforce Laws**

SEC. 3. (a) Said board shall administer and enforce, and is vested with all of the powers, duties, purposes, functions, and jurisdiction which are now or hereafter may be vested in any other state officer or agency under, Chapter 590 of the California Statutes of 1913 as amended or any and all other laws relating to the state civil service as said laws may now exist or may hereafter be enacted, amended or repealed by the Legislature.

**Funds**

(b) On the effective date hereof, the unencumbered balance of all funds heretofore lawfully available, or then to be allocated by the Director of Finance, for the maintenance and support of the state officer or agency heretofore administering said above mentioned laws shall become available for the support and maintenance of the board herein created subject to like limitations, other than departmental power of allocation, as heretofore existed with respect thereto.

(New section adopted November 6, 1934. Initiative measure.)

**Officers and Employees Exempt From Civil Service**

SEC. 4. (a) The provisions hereof shall apply to, and the term "state civil service" shall include, every officer and employee of this State except:

- (1) State officers elected by the people.
- (2) State officers directly appointed by the Governor with or without the consent or confirmation of the Senate and the employees of the Governor's office.
- (3) State officers and employees directly appointed or employed by the Attorney General or the Judicial Council; or by any court of record in this State or any justice, judge or clerk thereof.
- (4) State officers and employees directly appointed or employed by the Legislature or either house thereof.
- (5) One person holding a confidential position to any officer mentioned in paragraphs (1), (2) or (4) hereof except that there shall be but one such position to any board or commission composed in whole or

in part of officers mentioned in said paragraphs, each such person to be selected by the officer, board or commission to be served.

(6) One deputy for the Legislative Counsel and for each state officer elected by the people, each such deputy to be selected by the officer to be served.

(7) Persons employed by the University of California.

(8) Persons employed by any state normal school or teachers college.

(9) The teaching staff of all schools under the direction or jurisdiction of the Superintendent of Public Instruction, the Department of Education or the director thereof or the State Board of Education who otherwise would be members of the state civil service.

(10) Employees of the Federal Government, or persons whose selection is subject to rules or requirements of the Federal Government, engaged in work done by cooperation between the State and Federal Government or engaged in work financed in whole or in part with federal funds.

(11) Persons appointed or employed by or under the State Board of Prison Directors or any warden of a state prison.

(12) The officers and employees of the Railroad Commission.

(13) Member help in the Veterans' Home of California and inmate help in all state charitable or correctional institutions.

(14) The members of the militia of the State while engaged in military service.

(15) Officers and employees of district agricultural associations employed less than six months in any one calendar year.

(16) Stewards and veterinarians of the California Horse Racing Board who are not employed on a full time basis.

#### **Legislative Power**

(b) The Legislature may provide that the provisions of this article shall apply to, and the term "state civil service" shall include, any person or group of persons hereinbefore excepted other than those mentioned in paragraphs (1), (2), (7) or (14) of subdivision (a) of this section. Hereafter, no exception shall be revived with respect to any person or group of persons heretofore or hereafter included in the state civil service under this subdivision. The Legislature may, however, provide that any officer included in the state civil service pursuant to this paragraph may be appointed by the Governor, and in such case the provisions of paragraph (2) shall apply.

#### **New Personnel**

(c) Whenever the appointment or employment of new or additional officers or employees of this State is hereafter authorized by law, such officers or employees shall be subject to the provisions hereof and included within the state civil service unless of a class excepted herein.

(Amendment adopted November 7, 1950.)

***Provisions of Article Are Self-executing***

SEC. 5. (a) The provisions of this article shall be self-executing but legislation not in conflict herewith may be enacted to facilitate its operation.

***Laws Applicable***

(b) All laws relating to the state civil service are continued in force insofar as not in conflict herewith subject to the power of the Legislature to amend or repeal such laws and to enact new laws not in conflict herewith.

***Former Rules***

(c) The rules, regulations, classes and grades of positions heretofore lawfully adopted by the state officer or agency heretofore administering said laws are continued in force and upon the effective date hereof the same shall become the rules, regulations, classes and grades of positions of the board herein created subject to change by said board in the exercise of its powers herein conferred or as may be hereafter provided by law.

***Status of Incumbents***

(d) All persons other than temporary appointees heretofore serving in the state civil service shall continue so to serve without change of class or grade of position heretofore acquired save as such class or grade may be changed by said board in the exercise of its powers herein conferred or as may be hereafter provided by law.

***Incumbent Probationers***

(e) All persons not hereinbefore provided for in subdivision (d) hereof, holding positions subject hereto for more than six months immediately preceding the effective date hereof, shall continue to hold such positions subject to the provisions hereof save that the board in adopting rules relative to classes or grades of the position held by such person shall give each such person such class or grade as it may deem just and such probationary term to commence on the effective date hereof of not less than two months nor more than eight months in the class or grade assigned as it may fix.

***Incumbent Temporary Employees***

(f) All persons not hereinbefore provided for in subdivisions (d) and (e) hereof holding positions subject hereto less than six months immediately preceding the effective date hereof shall be deemed to hold such position under temporary appointment under the provisions hereof but such temporary appointment shall be deemed to have commenced on the effective date hereof.

(New section adopted November 6, 1934. Initiative measure.)

***Temporary Appointments***

SEC. 6. (a) No temporary appointment of a person to any position shall be made unless there is no employment list from which such position can be filled.

(b) No person shall hold a given position under temporary appointment for a longer period than nine months in any consecutive 12 months, nor shall any person serve in the state civil service under temporary appointment for a longer total period than nine months in any consecutive 12 months.

(Amendment adopted November 7, 1950.)

***Veterans Preferences***

SEC. 7. Nothing herein contained shall prevent or modify the giving of preferences in appointments and promotions in the state civil service to veterans and widows of veterans as is now or hereafter may be authorized by the Legislature.

(New section adopted November 6, 1934. Initiative measure.)

**ARTICLE XXV****Old Age Security and Security for the Blind Law**

**REPEALED (SEE ARTICLE XXVII)**

(New article (initiative measure) adopted November 2, 1948,  
repealed by amendment adopted November 8, 1949)

**ARTICLE XXVI \*****Motor Vehicle Taxation and Revenues*****Use of Fuel Taxes***

SECTION 1. (a) From and after the effective date of this article, all moneys collected from any tax now or hereafter imposed by the State upon the manufacture, sale, distribution, or use of motor vehicle fuel, for use in motor vehicles upon the public streets and highways over and above the costs of collection, and any refunds authorized by law shall be used exclusively and directly for highway purposes, as follows:

(1) The construction, improvement, repair and maintenance of public streets and highways, whether in incorporated or unincorporated territory, for the payment for property, including but not restricted to rights of way, taken or damaged for such purposes and for administrative costs necessarily incurred in connection with the foregoing.

(2) As now or hereafter may be provided by law, the net revenue from not more than 20 percent of 1 cent per gallon tax on such motor vehicle fuel may be expended under any act of the Legislature for the

\* New article adopted November 8, 1938.

payment, redemption, discharge, purchase, adjustment, contributing to or refunding of special assessments or bonds or coupons issued for street or highway purposes as set forth in this section and which special assessment districts were initiated by an ordinance or resolution of intention adopted prior to January 1, 1933.

(New section adopted November 8, 1938.)

#### ***Use of Motor Vehicle Registration and License Fees and Taxes***

SEC. 2. (a) From and after the effective date of this article, all moneys collected from motor vehicle and other vehicle registration license fees and from any other tax or license fee now or hereafter imposed by the State upon vehicles, motor vehicles or the operation thereof, except as may otherwise be provided in Section 4 of this article, shall be used for the following purposes:

1. For costs of collection and for the administration and enforcement of all laws now in effect or hereafter enacted, regulating or concerning the use, operation or registration of vehicles used upon the public streets and highways of this State and for the exercise of those powers and for the performance of those duties now imposed upon the California Highway Patrol.

2. For street and highway purposes as specified in paragraph (1) of subdivision (a) of Section 1 of this article.

(b) The moneys referred to in subdivision (a) of this section allocated to the counties and any city and county may also be used as now or hereafter provided by the Legislature for the following additional purposes, provided such use will not in any manner cause the loss of federal highway funds to this State;

(1) For the payment of any portion of the principal or interest of, or for the purchase or redemption at a discount of, or for transfer to the Interest and Sinking Fund for the discharge and payment of bonds voted at an election prior to January 1, 1935, and issued by a city, city and county, or county, the proceeds of which have been used for the purposes specified in paragraph (1) of subdivision (a) of Section 1 of this article.

(2) For the payment, redemption, discharge, purchase, adjustment, contributing to or refunding of special assessments or bonds or coupons issued to represent such special assessments, which assessments were imposed wherein the ordinance or resolution of intention was adopted prior to January 1, 1933, for the acquisition of rights of way or easements for or for the construction or improvements of public streets, highways or parks.

(New section adopted November 8, 1938.)

#### ***Appropriations by the Legislature—Regulation of Expenditures, Etc.***

SEC. 3. The provisions of this article are self-executing but the Legislature shall have full power to appropriate such moneys and to provide the manner of their expenditure by the State, counties, cities and counties, or cities for the purposes specified and to enact legisla-

tion not in conflict with this article. This article shall not prevent any part of the moneys referred to in Sections 1 or 2 hereof from being temporarily loaned to the State General Fund upon condition that the amount so loaned shall be repaid therefrom to the funds from which so borrowed to be used for the purposes specified in Sections 1 or 2 hereof.

(New section adopted November 8, 1938.)

**Scope of Article—Not to Affect Certain Existing Acts**

SEC. 4. This article shall not affect or apply to any license fees or taxes imposed by Chapter 339, Statutes of 1933, as amended, nor to any tax which is now or may hereafter be imposed by the "Retail Sales Tax Act of 1933," as amended, or the "Use Tax Act of 1935," as amended; nor shall it affect or repeal any provision of the "Unemployment Relief Bond Act of 1933," Chapter 207, Statutes of 1933, as approved by Section 9 of Article XVI of this Constitution, nor shall it affect or invalidate Chapter 362, Statutes of 1935, as amended, imposing a motor vehicle license fee based upon value. The Legislature may continue in effect the tax imposed by Chapter 362, Statutes of 1935 as amended, provided that the continuation of, or any amendment to, said Chapter 362, shall provide that the revenue from said tax, excluding the costs of collection and subventions to counties, cities and counties, and cities, shall first be applied to the payment of principal and interest on all state highway bonds outstanding on the effective date of this article. In the event the tax imposed by said Chapter 362, Statutes of 1935 as amended, is repealed, the Legislature may make provision for such payment of said state highway bonds by means of any fees or taxes of the types mentioned in this article, whether now or hereafter imposed, provided such payment will not in any manner cause the loss of federal highway funds to this State.

Nothing in this article shall be construed as repealing, superseding or modifying that provision of Section 15 of Article XIII of this Constitution, reading as follows:

"Out of the revenue from state taxes for which provision is made in this article, together with all other state revenues, there shall first be set apart the moneys to be applied by the State to the support of the Public School System and the State University."

In the event, however, moneys are transferred to the General Fund of the State from the funds referred to in this article for the support of the public schools and the State University, pursuant to Section 15 of Article XIII of this Constitution, the moneys so transferred shall be returned to the funds from which they were transferred from the first moneys available in the General Fund in excess of those required under Section 15 of Article XIII of this Constitution for the support of the public schools and the State University.

(New section adopted November 8, 1938.)

## ARTICLE XXVII \*

### Repeal of Article XXV—Old Age Security and Security for the Blind

#### *Article XXV Repealed*

SECTION 1. Article XXV of amendment to the Constitution of the State of California is hereby repealed.

(New section adopted November 8, 1949. Initiative measure.)

#### *Re-enactment of Constitutional Provisions*

SEC. 2. All provisions of this Constitution which were repealed by Article XXV of amendment to this Constitution because they were in conflict therewith, if any, are hereby re-enacted, revived and declared to be fully and completely effective.

(New section adopted November 8, 1949. Initiative measure.)

#### *Re-enactment of Laws*

SEC. 3. (a) All laws which were repealed by Article XXV of amendment to this Constitution because they were in conflict therewith are hereby re-enacted, revived and declared to be fully and completely effective.

(b) All of the provisions of Chapters 1, 2, and 3 of Division 3 of the Welfare and Institutions Code of the State of California relating to old age security and Chapters 1, 2, and 3 of Part 1 of Division 5 of the Welfare and Institutions Code of the State of California relating to aid to blind as in effect at the time of the passage of Article XXV of amendment to the Constitution of the State of California are hereby re-enacted, revived and declared to be fully and completely effective.

(c) Nothing contained in paragraph (b) of this section shall be construed to limit in any way the provisions contained in paragraph (a) of this section.

(d) All of the laws re-enacted, revived and declared to be fully and completely effective by this section may, at any time, be amended or repealed by the Legislature.

(New section adopted November 8, 1949. Initiative measure.)

#### *Amount of Old Age Aid Allowed (Sec. 2020, Welfare and Institutions Code)*

SEC. 4. (a) Section 2020 of the Welfare and Institutions Code of the State of California is amended to read as follows:

2020. Amount of Aid Allowed. The amount of aid to which any applicant shall be entitled shall be, when added to the income (including the value of currently used resources, but excepting casual income and inconsequential resources) of the applicant from all other sources, seventy-five dollars (\$75) per month. If, however, in any case it is found the actual need of an applicant exceeds seventy-five dollars (\$75) per month, such applicant shall be entitled to receive aid in an amount, not to exceed seventy-five dollars (\$75) per month, which when added

\* New article adopted November 8, 1949. Initiative measure.

to his income (including the value of currently used resources, but excepting casual income and inconsequential resources) from all other sources, shall equal his actual need.

***Federal Contributions (Sec. 2025, Welfare and Institutions Code)***

(b) Section 2025 of the Welfare and Institutions Code of the State of California is amended to read as follows:

2025. Increase or Decrease of Federal Contributions: Change in Amount of Aid: Maximum and Minimum: Legislative Intent. If, when, and during such times as the United States Government increases or decreases its contributions in assistance of the aged in this State above or below the amount being paid on January 1, 1947, or above or below the amount payable as a result of any such increase or decrease, the amount of the grant of aid provided for in this article shall be increased or decreased by an amount equal to such increase or decrease by the United States Government, but in no event shall the total aid granted under this chapter be more than seventy-five dollars (\$75) nor less than sixty-five dollars (\$65) per month. It is the intent of the Legislature that any change in contributions by the United States Government, whether increase or decrease, shall result in a corresponding change in the amount of this grant, within the limits established by this section.

***State Appropriations to Counties—Aid to Needy Blind  
(Sec. 3025, Welfare and Institutions Code)***

(c) Section 3025 of the Welfare and Institutions Code of the State of California is amended to read as follows:

3025. State Appropriations to Counties. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated to every county in the State, maintaining, supporting, or caring for, as hereinafter provided in this chapter, any needy blind person, resident of such county, aid not in excess of seven hundred sixty-five dollars (\$765) per annum for each such needy blind person so maintained, supported and cared for, or aid not in excess of one thousand twenty dollars (\$1,020) per annum in the event such needy blind person has no county residence as provided in this chapter.

***Order for Aid—Needy Blind (Sec. 3084, Welfare and Institutions Code)***

(d) Section 3084 of the Welfare and Institutions Code of the State of California is amended to read as follows:

3084. Order for Aid: Issuance: Amount: Payment. If the county board of supervisors is satisfied that the applicant is entitled to aid under the provisions of this chapter, it shall, without delay, issue an order therefor.

**Amount of Aid to Needy Blind**

The amount of aid to which any applicant shall be entitled shall be, when added to the income (including the value of currently used resources, but excepting casual income and inconsequential resources) of the applicant from all other sources, eighty-five dollars (\$85) per month. If, however, in any case it is found the actual need of an applicant exceeds eighty-five dollars (\$85) per month such applicant shall be entitled to receive aid in an amount, not to exceed eighty-five dollars (\$85) per month, which when added to his income (including the value of currently used resources, but excepting casual income and inconsequential resources) from all other sources, shall equal his actual need.

The aid granted under this chapter shall be paid monthly, in advance, out of such funds as may be designated by the board of supervisors on warrant of the county auditor of the county. Payments of aid shall be commenced as of the first day of the month in which the application is granted, unless otherwise directed by the State Social Welfare Board in cases in which an appeal is taken; but in any event the beginning of aid shall not antedate the date of application.

**State Appropriation for Aid—Partially Self-supporting Blind  
(Sec. 3420, Welfare and Institutions Code)**

(e) Section 3420 of the Welfare and Institutions Code of the State of California is amended to read as follows:

3420. State Appropriation. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated to every county in the State, maintaining, supporting, or caring for, as herein-after provided in this chapter, any blind person, resident of such county, aid not in excess of eight hundred fifty dollars (\$850) per annum for each such blind person so maintained, supported and cared for, or aid not in excess of one thousand twenty dollars (\$1,020) per annum in the event such blind person has no county residence as provided in this chapter.

**Order for Aid (Sec. 3472, Welfare and Institutions Code)**

(f) Section 3472 of the Welfare and Institutions Code of the State of California is amended to read as follows:

3472. Order for Aid: Amount: Income Not to Be Considered: Computation of Additional Income. If the county board of supervisors is satisfied that the applicant is entitled to aid under the provisions of this chapter, it shall, without delay, issue an order therefor. The amount of aid to which any applicant shall be entitled shall be, when added to the net income of the applicant from all other sources, eighty-five dollars (\$85) per month.

**Exempted Income**

Net income from any of the following sources of a combined total value not exceeding eight hundred dollars (\$800) per annum shall not be considered for any purpose:

- (a) Income from applicant's labor or services;
- (b) The value of foodstuffs produced by the applicant or his family for his use or that of his family;
- (c) The value of firewood and/or water produced on the premises of the applicant or given to him by another for the applicant's use;
- (d) The value of gifts;
- (e) The value of the use and occupancy of premises owned and occupied by the applicant;
- (f) The net income from real and personal property owned by the applicant.

Income in addition to the above specified shall be computed on the basis of net income.

All laws of this State that are inconsistent with any of the provisions of this Section 4 including all laws re-enacted and revived and declared to be fully and completely effective by this article are hereby repealed.

All or any sections of the Welfare and Institutions Code of the State of California hereby amended, may be further amended or may be repealed by the Legislature.

(New section adopted November 8, 1949. Initiative measure.)

#### **Effective Date of Article**

SEC. 5. If this article is adopted by the people, it shall take effect five days after the date of the official declaration of the vote by the Secretary of State and become operative upon the first day of the third month following the last day of the month in which occurs the date of the official declaration of the vote.

Until this article becomes both effective and operative the provisions of Article XXV of amendment to this Constitution as in effect prior to the effective date of this article shall remain operative.

(New section adopted November 8, 1949. Initiative measure.)

#### **Constitutionality of Article**

SEC. 6. If any portion, section or clause of this article shall for any reason be declared unconstitutional or invalid, such declaration or adjudication shall not affect the remainder of this article.

(New section adopted November 8, 1949. Initiative measure.)

## **ARTICLES XXVIII TO XXXIII**

**No Articles XXVIII to XXXIII Have Been Adopted**

## ARTICLE XXXIV \*

### Public Housing Project Law

#### *Electors Must Approve Low Rent Housing Projects*

SECTION 1. No low rent housing project shall hereafter be developed, constructed, or acquired in any manner by any state public body until, a majority of the qualified electors of the city, town or county, as the case may be, in which it is proposed to develop, construct, or acquire the same, voting upon such issue, approve such project by voting in favor thereof at an election to be held for that purpose, or at any general or special election.

#### *"Low Rent Housing Projects"*

For the purposes of this article the term "low rent housing project" shall mean any development composed of urban or rural dwellings, apartments or other living accommodations for persons of low income, financed in whole or in part by the Federal Government or a state public body or to which the Federal Government or a state public body extends assistance by supplying all or part of the labor, by guaranteeing the payment of liens, or otherwise. For the purposes of this article only there shall be excluded from the term "low rent housing project" any such project where there shall be in existence on the effective date hereof, a contract for financial assistance between any state public body and the Federal Government in respect to such project.

#### *"Persons of Low Income"*

For the purposes of this article only "persons of low income" shall mean persons or families who lack the amount of income which is necessary (as determined by the state public body developing, constructing, or acquiring the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

#### *"State Public Body"*

For the purposes of this article the term "state public body" shall mean this State, or any city, city and county, county, district, authority, agency, or any other subdivision or public body of this State.

#### *"Federal Government"*

For the purposes of this article the term "Federal Government" shall mean the United States of America, or any agency or instrumentality, corporate or otherwise, of the United States of America.

(New section adopted November 7, 1950. Initiative measure.)

• New article adopted November 7, 1950. Initiative measure.

***Provision Is Self-executing—Additional Legislation***

SEC. 2. The provisions of this article shall be self-executing but legislation not in conflict herewith may be enacted to facilitate its operation.

(New section adopted November 7, 1950. Initiative measure.)

***Constitutionality of Article***

SEC. 3. If any portion, section or clause of this article, or the application thereof to any person or circumstance, shall for any reason be declared unconstitutional or held invalid, the remainder of this article, or the application of such portion, section or clause to other persons or circumstances, shall not be affected thereby.

(New section adopted November 7, 1950. Initiative measure.)

***Scope of Article***

SEC. 4. The provisions of this article shall supersede all provisions of this Constitution and laws enacted thereunder in conflict therewith.

(New section adopted November 7, 1950. Initiative measure.)

J. P. HOGE, President.

Attest: EDWIN F. SMITH, Secretary.

A. R. Andrews	Presley Dunlap
James J. Ayres	John A. Eagon
Clitus Barbour	Thomas H. Estey
Edward Barry	M. M. Estee
James N. Barton	Edward Evey
C. J. Beerstecher	Simon J. Farrell
Isaac S. Belcher	Jacob Richard Freud
Peter Bell	B. B. Glascock
Marion Biggs	W. P. Grace
E. T. Blackmer	Jno. S. Hager
Joseph C. Brown	John B. Hall
Saml. B. Burt	Thomas Harrison
John D. Condon	T. D. Heiskell
C. W. Cross	D. W. Herrington
Henry Edgerton	J. R. W. Hitchcock
Josiah Boucher	Volney E. Howard
James Caples	J. A. Filcher
Aug. H. Chapman	Abraham Clark Freeman
J. M. Charles	J. B. Garvey
Hamlet Davis	Joseph C. Gorman
Jas. E. Dean	William J. Graves
P. T. Dowling	V. A. Gregg
Luke D. Doyle	Joel A. Harvey
W. L. Dudley	Conrad Herold
Jonathan M. Dudley	S. G. Hilborn

J. E. Hale	L. D. Morse
Sam A. Holmes	Edmund Nason
W. J. Howard	W. P. Overton
W. F. Huestis	Henry Neunaber
Daniel Inman	James Martin Porter
L. F. Jones	M. R. C. Pulliam
J. M. Kelley	Patrick Reddy
John J. Kenny	Jas. S. Reynolds
T. H. Laine	Chas. S. Ringgold
R. M. Lampson	James McM. Shafter
H. M. La Rue	Rufus Shoemaker
J. F. Lindow	Benj. Shurtleff
Edward Martin	Geo. Venable Smith
Rush McComas	John C. Stedman
Wm. Procter Hughey	D. C. Stevenson
G. W. Hunter	Chas. V. Stuart
George A. Johnson	Charles Swenson
Peter J. Joyce	D. S. Terry
James H. Keyes	F. O. Townsend
C. R. Kleine	Daniel Tuttle
Henry Larkin	A. P. Vacquerel
R. Lavigne	Hugh Walker
David Lewis	Byron Waters
Jno. Mansfield	J. V. Webster
J. West Martin	Patrick M. Wellin
John G. McCallum	H. W. Smith
Thomas McConnell	E. P. Soule
Thomas B. McFarland	Geo. Steele
Wm. S. Moffatt	W. J. Sweasey
W. W. Moreland	R. S. Swing
James E. Murphy	S. B. Thomsen
Thorwald Klaudius Nelson	W. J. Tinnin
Chas. C. O'Donnell	P. B. Tully
George Ohleyer	H. K. Turner
James O'Sullivan	Walter Van Dyke
William H. Prouty	Wm. Van Voorhies
Chas. F. Reed	Jno. Walker
Jno. M. Rhodes	Joseph R. Weller
Horace C. Rolfe	John P. West
Geo. W. Schell	John T. Wickes
J. Schomp	Wm. F. White
E. O. Smith	H. C. Wilson
John McCoy	Jos. W. Winans
Hiram Mills	N. G. Wyatt
John Fleming McNutt	



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State of California  
Appears on Pages 277 to 334**

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**OFFICIAL DECLARATION OF THE RESULT OF THE GENERAL  
ELECTION HELD THROUGHOUT THE STATE OF CALIFORNIA  
ON TUESDAY, NOVEMBER 2, 1954, ON MEASURES SUBMIT-  
TED TO A VOTE OF ELECTORS**

**The following laws were adopted by vote of electors:**

<i>Number on ballot</i>	<i>Ballot title</i>
1.	Veterans Bond Act of 1954 (Chapter 28, First Ex. Session 1954)
2.	School Bonds (S. C. A. 3, First Ex. Session, 1954)
3.	Alcoholic Beverage Control (S. C. A. 4, First Ex. Session 1954)
5.	Taxation. Exemption of Vessels (S. C. A. 23)
6.	Pay of Legislators (A. C. A. 13, First Ex. Session 1954)
7.	Land Titles. Torrens Act (Amendment of Initiative)
9.	Church Exemption: Property Under Construction (A. C. A. 54)
11.	Taxation: Exemption for Disabled Veterans (A. C. A. 2)
14.	College Exemption: Property Under Construction (A. C. A. 53)
15.	Welfare Exemption: Property Under Construction (A. C. A. 22)
16.	Water Rights of Government Agencies (S. C. A. 30)
18.	Resident Noncitizens: Property Ownership (A. C. A. 10)
20.	Framing County Charters (S. C. A. 27)

**The following proposed laws were defeated by vote of electors:**

4.	Aid to Needy Aged (Initiative)
8.	Tax Exemption of Commercial Fishing Vessels (S. C. A. 32)
10.	Terms of State Officers (A. C. A. 1)
12.	Voting Eligibility (A. C. A. 28)
13.	Vernon City Charter (A. C. A. 20)
17.	Street and Highway Funds. Vehicle Parking (A. C. A. 32)
19.	Inferior Court Judges (A. C. A. 57)

# OFFICIAL DECLARATION OF THE RESULT OF THE GENERAL ELECTION HELD THROUGHOUT THE STATE OF CALIFORNIA ON TUESDAY, NOVEMBER 6, 1956, ON MEASURES SUBMITTED TO A VOTE OF ELECTORS

The following laws were adopted by vote of electors:

<i>Number on ballot</i>	<i>Ballot title</i>
1.	Veterans Bond Act of 1956 (Chapter 38, First Ex. Session, 1956)
2.	School Bonds (S. C. A. 11)
3.	State Construction Program Bonds (A. C. A. 11)
5.	Alcoholic Beverage Establishments (S. C. A. 2)
6.	Church Exemption: Parking Lots (A. C. A. 3)
8.	Legislative Budget Sessions (S. C. A. 4, First Ex. Session, 1956)
11.	Framing County Charters (A. C. A. 4)
12.	State Indebtedness (S. C. A. 7)
13.	Repealing Alien Land Law (Repeal of Initiative Act, Chapter 316, 1955)
14.	Legislative Employees (A. C. A. 9)
15.	Public Water Supplies: Mutual Water Companies (S. C. A. 29)
16.	Civil and Criminal Appeals (A. C. A. 54)
17.	Constitutional Provisions Relating to Judiciary (A. C. A. 53)
19.	State Boundaries (S. C. A. 13)

The following proposed laws were defeated by vote of electors:

4. Oil and Gas Conservation (Initiative Act)
7. State Legislature (A. C. A. 68)
9. Borough Form of Government (A. C. A. 46)
10. Civil Service: Contract Architects and Engineers (S. C. A. 6)
18. Inferior Court Judges (A. C. A. 63)

Number of signatures necessary to submit initiative and referendum measures to vote of electors for the years 1957 and 1958.

Initiative by people -----	322,429
Initiative to Legislature -----	201,518
Referendum -----	201,518

(Basis of percentage: 8 percent of total of all votes cast for Governor at general election, November 2, 1954, to submit initiative measures; 5 percent of total of all votes cast for Governor at general election, November 2, 1954, to submit initiative measure to Legislature and for referendum measure. Total of all votes cast for Governor November 2, 1954: 4,030,368.)

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# **Constitutional History of California**

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# **Constitutional History of California**

By PAUL MASON

## **GOVERNMENT DURING THE SPANISH PERIOD**

### **Spanish Plan of Government**

#### ***Earliest Government of California***

Beginning with the first Spanish settlement in California in 1769 the government was divided between the Padres who exercised an ecclesiastical control of the missions, and comandantes who exercised military control over the soldiers and presidios and generally over crimes.

With the establishment of pueblos a short time later, a civil government was established which consisted merely of a Governor, but for a long period of time it was of no practical importance.

The independence of Mexico was secured from Spain in 1821.

In 1837 a new constitution was drawn up by which the government of the provinces was substantially altered and the missions were confiscated.

#### ***Government of California in 1846<sup>1</sup>***

At the time of the occupation of California by the Americans the province was governed by the laws of March 20 and May 23, 1837, which provided for a government divided into executive, legislative and judicial departments. The division was not as carefully followed as in our state and national governments, but was more closely followed than in our county governments. The government was also decidedly more centralized than our own.

#### ***The Executive Department***

The Executive Department of the Government consisted of a Governor appointed by the Government of Mexico, prefects appointed by the Governor and approved by the Federal Government of Mexico, and subprefects appointed by the prefects and approved by the Governor. Both prefects and subprefects were responsible to the Governor for the administration of the government in their local districts.

The position of prefect, or subprefect, is more comparable to our sheriffs than to any other of our officers.

The Governor, through the prefects, subprefects and town councils (*ayuntamientos*), where they existed, was responsible for the public order of the department, the disposal of the armed force assigned to him for police purposes, and was authorized when necessary to require

<sup>1</sup> Browne Debates, Translation of Mexican laws, XXIV, XLIV; 1 Cal. 559, 587.

the service of troops from the comandante. It was his duty to publish and execute the laws of the department and of the general government, to remit to the government all acts of the Departmental Legislature, to watch over the revenues and the public health of the department, to take care that there was no want of elementary schools, to see that the school teachers possessed good moral character and the necessary qualifications, and to send vagabonds and idle persons to workshops or agricultural establishments.

The Governor also had power to issue search warrants, to appoint officers for a term not to exceed three years, to suspend the town councils with the consent of the Legislature, to decide disputes concerning local elections, to preside over the Departmental Legislature and to vote in case of a tie, and to preside over public meetings.

The law provided for a secretary whose duties correspond closely with the duties of the secretaries of state in our own states, and who was also to act as a private secretary to the Governor.

#### *The Legislative Department*

The Departmental Legislature consisted of seven members who were elected every four years. The duties of the Legislature were to pass laws relating to taxes, public education, industry, trade and municipal administrations; to establish schools in all of the towns of the department; and to collect and assign funds to the schools; to order the establishment and repair of the roads; to make regulations for the improvement of public education, and the improvement of agricultural industries and commerce; to audit municipal financial reports, and to advise with the Governor when he should require it. The Legislature was prohibited from imposing illegal or unauthorized contributions; from raising armies except when ordered by the general government and from exercising authority other than that granted by the laws of Mexico.

#### *The Judicial Department*

The Judicial Department as provided by the laws of March 20 and May 23, 1837, called for a Supreme (Superior) Court, courts of second instance, courts of first instance, and courts of alcaldes and justices of the peace. The Supreme Court (Tribunal Superior) was to consist of four Justices (Ministros) and an Attorney General (Fiscal). The courts of second instance (*segunda instancia*) were constituted by the Judges of the Supreme Court sitting separately. The Supreme Court and courts of second instance were courts of appellate jurisdiction.<sup>2</sup> The courts of first instance (*primera instancia*) were the district courts of original jurisdiction. The judges of courts of first instance were appointed by the Governor upon the recommendation of the Supreme Court. The alcaldes were municipal officers who exercised judicial functions, and the courts of the justices of the peace (*jueces de*

<sup>2</sup> 1 California Reports, 575.

paz) were local courts having jurisdiction of cases involving the less important matters.

By a decree of March 2, 1843, alcaldes and justices of the peace of California were empowered to perform the functions of judges of first instance in those districts in which there were no judges of courts of first instance.<sup>3</sup>

The Departmental Legislature and the Governor were especially enjoined to provide for the appointment of a sufficient number of justices of the peace so that there should be one in "every ward and populous ranchería distant from a town." The justices of the peace were to be appointed by the prefects upon the recommendation of the subprefects.

The justices of the peace were granted the same authority that had been previously exercised by the alcaldes which they were to replace everywhere in California except in the capital city.<sup>4</sup> The town councils in which the alcalde was the chief officer continued to exist, however, in most of the towns, until the organization of the state government by the Americans.

The judicial system provided for the provinces of Mexico corresponds very closely with the present judicial system of California; the tribunal and courts of segunda instancia correspond with our Supreme and appellate courts; the courts of primera instancia, with our superior courts; the alcaldes courts, with our municipal courts and the justices' courts with our own justices' courts. The judicial system adopted by the first constitution was the system already established in California under the laws of Mexico.

#### *Judicial Procedure*

The judicial procedure was, except in two particulars, very similar to our own. In civil disputes before the case could go to the regular courts a hearing was required before a justice of the peace or alcalde for the purpose of attempting to effect a reconciliation. A special type of proceeding was also provided for civil cases in which the amount involved did not exceed \$100 and for criminal cases respecting trifling injuries. In these cases formal procedure was dispensed with and all pleadings were oral. The procedure in these cases was very similar to that in our small claims courts. It appears that small cases were rarely tried by the aid of attorneys, but instead each party brought a friend to assist him.

#### *Local Administration of Justice*

The alcaldes and justices of the peace were responsible for the good order and public tranquillity of the place of their residence and were required to watch over the execution of the police regulations and laws, and for the purpose of maintaining order they were authorized to ask for assistance from the military comandante. They were required to bring any person arrested by them before a judge within three days,

<sup>3</sup> *Mena vs. LeRoy*, 1 California Reports, 220.

<sup>4</sup> 1 California Reports, 575.

and to reprimand the idle, vagabonds, persons of bad character or conduct, and those of no known occupation. They were authorized on their own authority to levy and collect fines to the amount of \$25 (which were paid into the municipal treasury) and to impose sentences of not to exceed four days at hard labor or eight days confinement in prison.

### ***Municipal Government***

The capital of the department and certain other towns were authorized to establish town councils (*ayuntamientos*) and the town councils were to consist of not more than six magistrates (*alcaldes*), 12 councilmen (*regidores*) and two clerks (*sindicos*). Monterey, the capital of the province, was the only city in California which was by the laws of 1837 entitled to a town council.<sup>5</sup>

The *alcalde* was the principal municipal officer and performed the duties ordinarily performed in our own cities by the mayor, and in the absence of justices of the peace or judges of first instance, he performed the duties of these offices.

The duties of the town councils were to take care of the streets, public places, and public squares, to provide burial grounds, to watch over the quality of food and drugs, to provide supplies of water, to take charge of prisons and hospitals, and in case of epidemics to organize and establish health committees. They were to keep records of births, marriages, etc., and to endeavor as far as possible to have the streets straight, paved and lighted; to provide for the construction and repair of bridges and to license amusements. The town councils were given power to make and enforce local police regulations and were required to pay careful attention to the establishment of schools.

### ***General Riley's Summary of the Government***

General Riley in his proclamation of June 3, 1849, calling the constitutional convention, described the government of California, as he believed it should be organized under the Mexican law, as follows:

"It consists first of a Governor, appointed by the Supreme Government; in default of such appointment the office is temporarily vested in the commanding officer of the Department. The powers and duties of the Governor are of a limited character, and fully defined and pointed out by the laws. Second, a secretary, whose duties and powers are also properly defined. Third, a territorial or Departmental Legislature, with limited powers to pass laws of a local character. Fourth, a Superior Court (Tribunal Superior) of the Territory, consisting of four judges and a Fiscal. Fifth, a Prefect and Sub-Prefect for each district, who are charged with the preservation of public order and the execution of the laws; their duties correspond in a great measure with those of District Marshals and Sheriffs. Sixth, a Judge of First Instance for each district. This office is by a custom not inconsistent with the laws,

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\* 1 California Reports, 574.

vested in the First Alcalde of the District. Seventh, Alcaldes who have concurrent jurisdiction among themselves in the same district are subordinate to the higher judicial tribunals. Eighth, Local Justices of the Peace. Ninth, Ayuntamientos or Town Councils. The powers and functions of all these officers are fully defined in the laws of this country, and are almost identical with those of the corresponding officers in the Atlantic and Western States."

### The Actual Government

#### *The Alcalde System*

The actual government, however, appears to have been very different from that provided by the laws of 1837. In a department where revolution and disorder were the rule, and law and order the exception, the Mexican judiciary consisted primarily of alcaldes and justices of the peace, and the Governor in person was the appellate court.

"When a neighborhood needed the services of a magistrate, an alcalde was chosen on the spot, and he either acted for a single occasion, or continued to act for a longer or shorter period according to the pleasure of those who put him into his precarious office."<sup>6</sup>

The executive and legislative departments of the government appear to have functioned in a manner very similar to that prescribed by the law, although revolutions frequently caused changes of the personnel, and there were almost constant disputes between the governor, representing the civil authority, and the comandante, representing the military authority.

When the Americans took control of the province of California, many of them were unfamiliar with the Mexican system. And particularly after the immigration following the discovery of gold, the proportion who had any knowledge of the Spanish system was very small.

In the north the settlements were in a region where the Mexican government or law were never established and where there was no governmental organization whatever.

The Americans, after the occupation of California in 1846, revived the alcalde system. Wherever a group of Americans collected, they proceeded to elect an American alcalde<sup>7</sup> who served as an adjuster of disputes and an administrator of the few local regulations. In cases involving the more serious criminal offenses, difficulties arose. When a regularly appointed judge was not available the miners frequently tried the cases by a jury without a judge. These "miner's courts" had the advantage of quickly and finally disposing of the cases. The administration of justice in the more remote mining districts appears to have been about as primitive and in many respects very similar to the

<sup>6</sup> R. A. Wilson, Judge of First Instance, Sacramento, 1 California Reports, 574.  
<sup>7</sup> Wilson, 1 California Reports, 577 (Appendix).

administration of justice by the petty chiefs and "hundred courts" among the early Saxons.

### *The Law Which Was Administered*

It was very seriously doubted at that time by the majority of the settlers, and even denied in the constitutional convention<sup>8</sup> that any of the former Mexican laws were actually in effect in the territory, although it was affirmed that "the laws of California, not inconsistent with the laws, constitution and treaties of the United States, are still in force, and must continue to be until changed by competent authority."<sup>9</sup>

The American alcaldes were usually completely ignorant of local Spanish customs and had no knowledge whatever of the civil or Spanish law, so that the law which was actually applied, insofar as it followed any system of law, was the common law.

And this, in spite of the fact that it was clear that there was no authorization for applying the common law, until it had been adopted by the Legislature.<sup>10</sup>

### *Government Under the United States*

At the same time that delegates were elected to the constitutional convention, officers to fill the administration and judicial offices as they were created by the Mexican law were voted upon. The prefects and judges of first instance were executive appointments but General Riley called for an advisory vote and appointed those persons securing the largest vote.<sup>11</sup>

The Legislature was never organized but the prefects, subprefects and judicial officers held office until January 1, 1850.

### *Judicial Opinions*

When the American government was established the courts accepted jurisdiction of appeals from the alcaldes as well as from the courts which were instituted by General Riley.<sup>12</sup>

The Supreme Court decided that the whole body of Mexican law had been applicable to California, insofar as it did not conflict with the Constitution or the laws of the United States, until it was officially replaced by the constitution of the state and the laws enacted by the legislatures.

The courts also gave the authority of law to customs which appeared to have been established in California, even when in direct conflict with the Mexican or Spanish law.<sup>13</sup>

<sup>8</sup> Browne, Debates, 274-277.

<sup>9</sup> Riley, Proclamation Calling Convention, Browne's Debates, 3.

<sup>10</sup> April 13, 1850.

<sup>11</sup> Riley, Proclamation Calling the Convention, Browne's Debates, p. 4; Justice Bennett, Preface 1, California Reports, p. VII. The election returns are in the archives of the office of the Secretary of State.

<sup>12</sup> Preface to Cal. Reports by Justice Bennett, p. VII.

<sup>13</sup> Von Schmidt vs. Huntington, 1 California Reports, 64; Farrand vs. Jones, 1 California Reports, 488.

## American Immigration and Occupation

### *Early American Immigration*

For several years previous to the war with Mexico, Americans had been moving into California as they had previously moved into Texas.

The number of Americans in California before about 1846 is not definitely known, but John Bidwell, an immigrant of 1841, said that in 1844 the Americans could not have mustered more than one hundred men, although most of the immigrants were able-bodied men.<sup>14</sup> It is estimated that the population of California, exclusive of Indians, in 1846 was 10,000, about 2,000 of whom were foreigners and that most of these were Americans.<sup>15</sup>

New American immigration was primarily to the northern part of California. Yerba Buena, which later became San Francisco, was primarily an American settlement, though most of the Americans settled on large ranchos north and east of San Francisco Bay in the Napa, Sonoma and Sacramento Valleys.

This immigration, however, did not affect to an important degree the Spanish-Californian settlements of the south. Los Angeles was the largest city and San Diego, Santa Barbara, San Luis Obispo and San Buena Ventura were settlements of some importance. Farther north, Monterey, the capital, was the chief seaport and had as yet been almost unaffected by the American immigration. San Jose and Sonoma were the only important truly Spanish settlements farther north. Sutter's Fort, which could scarcely be called Spanish, had already become an important establishment.

### *The Policy of the United States*

The policy of the United States from the beginning of Polk's administration seemed to have been fixed on the annexation of California.<sup>16</sup>

Larkin, the American Consul at Monterey, under instructions from Washington, was undertaking to establish a sentiment in California favorable to annexation.<sup>17</sup>

The slave states particularly appeared to desire more slave territory. All the relations of California with the Government of the United States were influenced and largely controlled by the slavery question in Congress.

### *Occupation of California*

With the outbreak of the war with Mexico the United States Government directed the seizure of California by the American naval forces and dispatched General Kearny overland with troops.<sup>18</sup>

<sup>14</sup> Bidwell, *Overland Monthly* XVI, 563.

<sup>15</sup> Hunt, *The Genesis of California's First Constitution*, Johns Hopkins Studies, Vol. 13, 30.

<sup>16</sup> Schouler, *History* IV, 446; 31st Congress, 1st Session, Dec. 17.

<sup>17</sup> Bancroft, XXII, 54.

<sup>18</sup> Bancroft, XXII, 195.

Commodore Sloat seized Monterey on July 7, 1846, and followed with the occupation of the other seaports and then the settlements of the interior, the occupation being complete by August 17, 1846.<sup>19</sup>

A group of American settlers at the instigation of Fremont, who was then on an exploring expedition in the West, had seized Sonoma and captured General Vallejo on June 14, 1846.

The Mexican government in California was not able to render any effective opposition to the occupation. The province was generally without military supplies and the population appeared almost entirely indifferent. They regarded Mexico almost as a foreign nation, and many of their leaders favored annexation to some foreign nation. There was a rather strong group, including Pio Pico, the Governor, who favored annexation to England; but many more were favorable to annexation to the United States. General Vallejo appears to have been the leader of those favoring annexation to the United States.<sup>20</sup>

The Mexican officials failed to cooperate in resisting occupation. At the time the occupation began, the Governor, Pico, and the Comandante, Castro, were attempting to raise armies for military operations against each other.<sup>21</sup> There was no actual military opposition to the occupation.

#### *Relation of California to the United States*

The seizure of California as a military measure warranted only the occupation of the province during the period of the war but the expectation that California was to be annexed was clearly shown by Sloat in his first proclamation issued at Monterey, July 7, 1846, in which, after charging Mexico with the responsibility of the war, he said:

"I declare to the inhabitants of California that, although I come in arms with a powerful force, I do not come among them as an enemy to California; on the contrary, I come as their friend, as henceforward California will be a portion of the United States, and its peaceful inhabitants will enjoy the same rights and privileges as the citizens of any other portion of that territory, with all the rights and privileges they now enjoy, together with the privilege of choosing their own magistrates and other officers for the administration of justice among themselves; and the same protection will be extended to them as to any other state in the Union. \* \* \* With full confidence in the honor and integrity of the inhabitants of the country, I invite the judges, alcaldes, and other civil officers to retain their offices, and to execute their functions as heretofore, that the public tranquillity may not be disturbed; at least until the government of the territory can be more definitely arranged. All persons holding titles to real estate, or in quiet possession of lands under a color of right, shall have those titles and rights guaranteed to them."<sup>22</sup>

<sup>19</sup> Bancroft, XXII, 230, 283.

<sup>20</sup> Bancroft, XXII, 67, 75.

<sup>21</sup> Bancroft, XXII, 30, 53.

<sup>22</sup> Bancroft XXII, 235.

Sloat was soon replaced by Stockton, who had a far less conciliatory attitude toward the native Californians but who did make promises of a civil government. In his first proclamation, July 29, 1846, he said:

\*\*\* \* \* and all persons who may have belonged to the government of Mexico, but who from this day acknowledge the authority of the existing laws, are to be treated in the same manner as other citizens of the United States, provided they are obedient to the law and to the orders they shall receive from me or by my authority. The commander-in-chief does not desire to possess himself of one foot of California for any other reason than as the only means to save from destruction the lives and property of the foreign residents, and citizens of the territory who have invoked his protection. As soon, therefore, as the officers of the civil law return to their proper duties, under a regularly organized government, and give security for life, liberty, and property, alike to all, the forces under my command will be withdrawn, and the people left to manage their own affairs in their own way.”<sup>23</sup>

#### *Revolt of the Californians*

Sloat had assumed a very friendly attitude toward the Californians and had promised a stable government. Stockton, on the other hand, though he had renewed promises of a civil government, was of a very different temperament and assumed the attitude of an intimidating conqueror, and enforced strict military law. The organization of a civil government by Stockton was delayed by a revolt in the southern part of the province, centering in Los Angeles; though it does appear that he had planned a civil government with Fremont as Governor.<sup>24</sup>

#### *Civil Governors, But No Government*

Before the revolt had been suppressed General Kearny had arrived overland from the “States” with instructions to organize a civil government. In a proclamation issued by General Kearny he promised the people that they would “soon be called upon to exercise their rights as free men, in electing their own representatives to make such laws as may be deemed best for the interest and welfare.”<sup>25</sup>

Kearny was unable to organize a civil government according to his plan, before he was succeeded by Colonel Mason.<sup>26</sup>

#### *Absence of Law and Government*

By May, 1846, it appears that although the laws of Mexico were, according to international usages still in effect, the people had begun to feel that there were no laws actually in force but “the divine law and the law of nature.” And the editor of the *California Star*<sup>27</sup> was unable to discover any general written laws whatever.

<sup>23</sup> Bancroft XXII, 256.

<sup>24</sup> Bancroft XXII, 413, 432, 468.

<sup>25</sup> *Californian*, March 18, 1847.

<sup>26</sup> May 31, 1847.

<sup>27</sup> March 27, 1847.

Already the settlers had become very clamorous for a civil government and began to feel that they had been seriously wronged, if not wilfully deceived, with promises of a self-government.

Mason undoubtedly had full power to establish a temporary civil government, and apparently began studying the conditions and collecting and translating the Mexican laws which he believed to be in force.

"Mason's Code" appears to have been completed and possibly printed. Bancroft says that "Mason formerly promulgated a code printed in English and Spanish."<sup>28</sup> It appears certain, however, that the code of law was never actually promulgated, and probably not printed, though the *Californian* states distinctly that a code was printed.<sup>29</sup>

#### *Delay in Government*

The expectation of peace with Mexico and a scheme for a civil government from Washington apparently caused a delay and possibly a relinquishment of Colonel Mason's plans for a civil government. It was expected that Congress, which was then in session, would certainly provide some sort of government for California, irrespective of whether peace were declared. And Mason, rather than proceeding with his idea of a civil government, assumed a policy of "watchful waiting." Congress adjourned without providing any form of government.

#### *No Action by Congress*

The next session of Congress opened in December. President Polk, in his annual message, recommended that a "stable, responsible and free government be provided for California and New Mexico."<sup>30</sup> Congress, however, failed to take any action. Meanwhile gold had been discovered and when the news became disseminated a large immigration began.

#### *Local Government Broken Down*

To this time apparently there was little injury done through the absence of a civil government. In the south, the government continued with slight change. In the north, the majority of the American settlers and other foreigners had lived under the Mexican system and were somewhat familiar, at least, with the general system of government. They proceeded to elect alcaldes from among themselves and maintained at least a fair degree of order.<sup>31</sup> With the new immigration conditions were changed. Many of the immigrants were of a lawless nature and as a whole they were reckless and adventuresome.

Most of the immigrants had come for gold with no idea of remaining permanently. The new immigration completely destroyed what appearance of government had remained in the north and the law-abiding

<sup>28</sup> Bancroft XXII, 263.

<sup>29</sup> August 14, 1848.

<sup>30</sup> 30th Congress, 2d Session, H. Ex., Doc. 1, 17.

<sup>31</sup> 1 California Reports, 577.

persons became still more insistent upon some type of government. The people of San Francisco met the situation by organizing a new local government.<sup>32</sup>

#### **Effect of Peace**

Even before immigrants began to arrive in large numbers, news was received of peace with Mexico. Legally, this terminated military rule. Tidings of peace were received by the people as opening the brightest possible prospect. Instead, however, of giving the people a civil government, the effect of peace was merely to take away the authority of the military government and leave the military organization with no further authority to act for the people than that of the presumed consent of the inhabitants.

Only two courses were open—to wait for Congress to provide a civil government or for the people to take the power into their own hands and organize a territorial or state government for themselves as the people of San Francisco had previously organized a municipal government.

In the *Star and Californian* of November, 1848, it was reported that Colonel Mason had, after a conference with Commodore Jones, decided that if Congress failed to provide for a government, he would immediately recommend "the appointment of delegates by the people to frame laws and to make their necessary arrangements for a provincial government for California."<sup>33</sup> By this time the population generally appears to have despaired of any action by Congress.

#### **People Take Action**

On December 11, 1848, the citizens of San Jose met "for the purpose of taking into consideration the propriety of establishing a provincial territorial government for the better protection of life and property" until Congress should provide a government for California. They adopted resolutions recommending that a general convention meet in San Jose.<sup>34</sup> Similar meetings were held in Sacramento, San Francisco and Sonoma.<sup>35</sup> There appears to have been a general popular feeling supporting the movement for the organization of an effective government.

In the spring of 1849, General Riley became *de facto* Governor, succeeding General Smith, who had been Governor for a short time following Colonel Mason. General Riley continued the policy of awaiting action of Congress.

From the time the treaty of peace was signed with Mexico, California had been practically without government, except that provided by the local alcaldes, and yet Congress adjourned for the third time without having made any provision for a government for California.

<sup>32</sup> *Annals of San Francisco*; 1 California Reports, 583.

<sup>33</sup> *Star and Californian*, December 16, 1848.

<sup>34</sup> *Star and Californian*, December 23, 1848.

<sup>35</sup> *Alta California*, January 25, February 22, March 22, 1849

After gold had been discovered, even the few soldiers who remained under the control of the military governor and the sailors on the ships deserted, and conditions became so bad that there were scarcely men enough to guard the few military supplies.<sup>36</sup>

The population had increased from 10,000 in the summer of 1846 to 26,000 by the end of 1848, and to 50,000 by August of the next year.<sup>37</sup> The new settlements usually elected alcaldes and when drastic action became necessary "miner's courts" convened and took such summary action as the conditions appeared to require.<sup>38</sup>

#### *General Riley Calls the Constitutional Convention*

General Riley proved to be more energetic than his predecessors and upon receipt of news that Congress had adjourned without provision for a government in California, he immediately asserted his authority by issuing a call for a constitutional convention. The people through local meetings in the various communities had already recommended the calling of a convention, and were inclined to dispute the authority of General Riley.<sup>39</sup> The difficulty was adjusted by the local organizations changing the date of their proposed convention to the date fixed by General Riley in his proclamation. The convention was called to meet at Monterey on September 1, 1849.

## THE FIRST CONSTITUTION

### *The Constitutional Convention*

On September 1, 1849, 10 delegates to the constitutional convention met at Colton Hall in Monterey. They elected a temporary chairman and secretary and adjourned until Monday, September 3. On Monday there were 28 members present.

The first matter taken up was the eligibility of members and the distribution of the representation. In the proclamation calling the convention General Riley had directed that "the district of San Diego will elect two delegates, of Los Angeles four, of Santa Barbara two, of San Luis Obispo two, of Monterey five, of San Jose five, of San Francisco five, of Sonoma four, of Sacramento four, of San Joaquin four. Should any district think itself entitled to a greater number of delegates than the above named, they may elect supernumeraries, who, on the organization of the convention, will be admitted or not at the pleasure of that body."<sup>40</sup>

In order to make a proper adjustment for the increasing population in some of the districts and possibly to adjust an unequal apportionment, the convention provided that the districts should be entitled to the following representation:

<sup>36</sup> Bancroft XXIV, 445-460.

<sup>37</sup> *Californian*, August 22, 1846; *Overland Monthly* XVI, 287.

<sup>38</sup> 1 California Reports, 577.

<sup>39</sup> Hunt, *Genesis of California's First Constitution*, 29.

<sup>40</sup> Browne, *Debates*, 4.

"San Diego, two; Los Angeles, seven; Santa Barbara, three; San Luis Obispo, two; Monterey, five; San Jose, seven; San Francisco, nine; Sonoma, six; Sacramento, fifteen; and San Joaquin, fifteen."<sup>41</sup>

### The Delegates

The persons who actually took part in the convention were the following:<sup>42</sup>

Name	Age	Where born	District in California	Length of residence	Profession
J. D. Hoppe	35	Maryland	San Jose	3 years	Merchant
Joseph Aram	39	New York	San Jose	3 years	Farmer
Elam Brown	52	New York	San Jose	3 years	Farmer
Jacob R. Snyder	34	Pennsylvania	Sacramento	4 years	Surveyor
Winfield S. Sherwood	32	New York	Sacramento	4 months	Lawyer
H. W. Hallett	32	New York	Monterey	3 years	U. S. Engineer
L. W. Hastings	30	Ohio	Sacramento	6 years	Lawyer
J. A. Sutter	47	Switzerland	Sacramento	10 years	Farmer
John McDougal	32	Ohio	Sacramento	7 months	Merchant
E. O. Crosby	34	New York	Sacramento	7 months	Lawyer
M. M. McCarver	42	Kentucky	Sacramento	1 year	Farmer
Julian Hanks	39	Connecticut	San Jose	10 years	Farmer
Kimball H. Dimmick	34	New York	San Jose	3 years	Lawyer
Thomas O. Larkin	47	Massachusetts	Monterey	16 years	Trader
Lewis Dent	26	Massachusetts	Monterey	3 years	Lawyer
Rodman M. Price	30	New York	San Francisco	4 years	U. S. Navy
Ch. T. Botts	40	Virginia	Monterey	16 months	Attorney at Law
M. G. Vallejo	42	California	Sonoma	All my life	Military
Manl. Domingues	46	California	Los Angeles	All my life	Banker
Antonio M. Pico	40	California	San Jose	All my life	Agriculturist
Jacinto Rodriguez	36	California	Santa Barbara	All my life	Agriculturist
Henry A. Tefft	26	New York	San Luis Obispo	4 months	Lawyer
Pedro Sanchezaine	31	France	San Jose	11 years	Negotiant
Hugo Reid	38	Scotland	Los Angeles	16 years	Farmer
Stephen C. Foster	28	Maine	Los Angeles	3 years	Agriculturist
J. McH. Hollingsworth	25	Maryland	San Joaquin	3 years	Lieut. Volunteers
Joseph Hobson	39	Maryland	San Francisco	5 months	Merchant
Pacificus Ord	34	Maryland	Monterey	8 months	Lawyer
O. M. Womencraft	34	Ohio	San Joaquin	4 months	Physician
J. P. Walker	52	Virginia	Sonoma	13 months	Farmer
W. E. Shannon	27	Ireland	Sacramento	3 years	Lawyer
Abel Stearns	51	Massachusetts	Los Angeles	20 years	Merchant
Thos. L. Vermeule	35	New Jersey	San Joaquin	3 years	Lawyer
Benj. S. Lippincott	34	New York	San Joaquin	3½ years	Trader
Myron Norton	27	New York	San Francisco	1 year	Lawyer
W. M. Stewart	29	Maryland	San Francisco	1 year	Attorney at Law
B. F. Moore	29	Florida	San Joaquin	1 year	Elegant leisure
A. J. Ellis	33	New York	San Francisco	2½ years	Merchant
Edw. Gilbert	27	New York	San Francisco	2½ years	Printer
J. M. Jones	25	Kentucky	San Joaquin	4 months	Attorney at Law
W. M. Gwin	44	Tennessee	San Francisco	4 months	Farmer
Jos Anto. Carrillo	53	California	Los Angeles	All my life	Labrador (Sp.), Farmer
Francis J. Lippitt	37	Rhode Island	San Francisco	2 years 7 months	Lawyer
Henry Hill	33	Virginia	San Diego	1 year 5 months	U. S. Army
Miguel de Pedroena	41	Spain	San Diego	12 years	Merchant
R. Semple	42	Kentucky	Sonoma	5 years	Printer
P. de la Guerra	36	California	Santa Barbara	-----	-----
J. M. Covarrubias	40	California	San Luis Obispo and Santa Barbara	-----	-----

It will be noticed that the original number of delegates called by General Riley was 37; that the representation as apportioned by the convention was 73, but that only 48 members attended the convention. The northern districts in particular did not send the number of delegates allotted to them.

Most of the members were young men, more than 30 of them were less than 40 years of age, nine were less than 30 years of age, and the

<sup>a</sup> Browne, Debates, 4.

<sup>b</sup> Browne, Debates, 478.

oldest was 53. The occupations were varied. There were 14 lawyers, 11 farmers and 7 merchants. It is probable that a large number of the members were, temporarily at least, miners. Fifteen of the members may be considered as from the southern states and there were 23 members from the northern states. The northern members had also on the average been in California for a greater number of years. There were seven native Californians, and five foreign-born members, one from France, one from Scotland, one from Switzerland, one from Ireland and one from Spain.

#### *Organization of the Convention*

The convention was organized on September 4th. Robert Semple, delegate from Sonoma, was elected president and William G. Marcy was elected secretary. W. E. P. Hartnell was elected translator for the Spanish-speaking members and various other lesser officers were elected. J. Ross Browne was elected reporter.

There are several of the members who deserve particular mention.<sup>43</sup> The president, Dr. Semple, who had been a resident of California for five years, proved to be a tactful and capable presiding officer, although technically, many of his decisions on procedure were not correct. He had been the founder of Benicia and had taken an active part in the revolt of the American settlers in 1846. H. W. Halleck was acting as Secretary of State under General Riley, in addition to being a member of the convention and appears to have served both offices very well. He later received some note as a general during the Civil War. William M. Gwin, a southerner, who had last resided in Louisiana, was one of the leading members of the convention. He had been a member of Congress, had recently sat in the constitutional convention in Iowa and had come to California but four months before in order to become a Senator from the new State. Thomas O. Larkin had been the United States Consul to California and had taken an active part in the occupation. Edward Gilbert, publisher of the *Alta California*, was a leading member from San Francisco. Foster, Crosby, Dimmick and Hastings were leading northern men. Botts, a Virginian, was one of the most capable southern members and a lawyer of ability. James M. Jones was also another capable lawyer and supporter of the South. The more prominent Spanish members were Carrillo, De la Guerra and Vallejo who appears to have been strongly pro-American in spite of humiliating treatment received during the revolt in 1846. Of the foreign-born delegates Captain Sutter stands out very prominently.

#### *State vs. Territorial Government*

Before the convention proceeded with the drawing up of the Constitution, Halleck secured a direct vote on the question of whether a state or territorial government was to be organized. The only opposition to a state government came from the southern part of the State. The vote favoring a state government was 28 to 8.<sup>44</sup>

<sup>43</sup> The descriptions of the members are taken from Bancroft XXII, 285, 287.  
<sup>44</sup> Browne, Debates, 23.

### ***Procedure in the Convention***

When the convention proceeded to the formation of the new Constitution, McCarver moved that the committee take the Constitution of Iowa as a basis for the proposed Constitution. Mr. Gwin explained that he had selected the Constitution of Iowa to be used as a basis for the new Constitution "because it was one of the latest and shortest" and that he had secured several copies for the use of the convention.<sup>46</sup> The method of procedure adopted was that proposed by Mr. Gilbert, of appointing a committee of two members from each district who should propose the new Constitution article by article. The first article, the "Bill of Rights," was reported on September 7th and the committee reported additional articles as each article was disposed of.

### ***Important Problems of the Convention***

The Bill of Rights as submitted by the committee made no reference to the question of slavery, but on motion of Mr. Shannon a section prohibiting slavery was adopted without opposition.

The first question upon which there was much debate was as to the matter of excluding free Negroes. It was finally decided to leave that question to the Legislature.

Another matter of controversy arose as to the right of a judge in charging juries to "state the testimony and declare the law." Yet finally the convention adopted the report of the committee giving the judges that power. Violent opposition was shown to corporations and particularly to banking corporations. Reference was frequently made to the panic of 1837, which was still fresh in the minds of many of the members. It was finally provided that "corporations may be formed under general laws, but shall not be created by special act," and "that no corporate body shall be created, renewed or extended with the privileges of making, issuing or putting in circulation any bill, check, ticket, certificate, promissory note, or other paper, or the paper of any bank to circulate as money."<sup>46</sup>

In providing for a school system it was expected that the Government of the United States would allot considerable land to be used for school purposes and so no other provisions were made for financing the schools, but it was provided that "the Legislature shall encourage by all suitable means the promotion of intellectual, scientific, moral and agricultural improvements" and schools were required to be maintained for at least three months each year.<sup>47</sup>

Questions of taxation were generally left to the Legislature, except that it was provided that assessors shall be elected by the local districts. This was a concession to the southern part of the State where most of the taxable property was located. The Legislature was authorized to secure a loan of not to exceed \$300,000.

<sup>46</sup> Browne, Debates, 24.

<sup>46</sup> Browne, Debates, 119.

<sup>47</sup> Constitution of 1849, Art. IX.

A section was adopted which provided that married women might have separate property. This was adopting a principle of the civil law in preference to the common law and continuing in effect the law as it had previously existed in California.<sup>48</sup>

#### *The Boundary Question*

The problem of the convention over which there was the most controversy was the fixing of the eastern boundary.<sup>49</sup> One group wished the eastern boundary to be the Sierra Nevada Mountains, while another wished to include the entire region ceded to the United States by Mexico, and which would include Utah and Nevada. After much heated discussion the present boundary was decided upon as a compromise, though it is scarcely east of the mountains. The arguments against the larger state were that the State would be so large that it could not be fairly represented in the Legislature nor the laws efficiently or effectively administered; that the large size would probably cause the State to be divided later, in which case it might lose some of its most valuable territory; that Congress would hesitate and might delay or deny the admission of the entire territory as one state. But the argument which appeared to finally settle the dispute was that there was in Utah a population of about 30,000, who had no representation in the convention, and the convention had no right to include them in the proposed State without their consent.

#### *The Government Provided*

The government provided for California by the convention was very similar to the present State Government. There were to be a Governor, Lieutenant Governor, Secretary of State and certain other elective executive and administrative officers. The Legislative Department was to consist of two houses to be called the Senate and the Assembly. The Governor was given the usual veto power. The Judicial Department, while very similar to that of the other states, was a continuation of the Mexican courts established by the law of 1837 with the one modification, that the Justices of the Supreme Court did not sit separately as judges of the district courts as the corresponding judges had done under the Mexican system. The Committee on the Constitution recommended that the Mexican system of courts be continued but the proposed article was amended to provide that Judges of the Supreme Court should not sit separately as judges of the courts of second instance, which were to be called district courts.

#### *Sources of the Constitution*

The Constitution of 1849 is rather a compilation of parts of the constitutions of the other states than an original document.

The members of the convention were well suited by experience for the work of compilation. Thirty-eight of the delegates had been citizens of

<sup>48</sup> Art. XI, Sec. 13.

<sup>49</sup> Browne, Debates, 154, 123-124, 167-169, 418-461.

21 different states, and the 14 lawyers had been citizens of 11 of the states.

The constitutions of all of the states appear to have been used by the convention. On four different occasions the constitutions were referred to collectively and on one occasion Halleck stated that the Committee on the Constitution was working "with the constitutions of every state in the Union before it."<sup>50</sup>

Twenty of the state constitutions and the Federal Constitution were mentioned in the debates, some of them several times.<sup>51</sup>

It is not always possible to determine the exact influence the various constitutions had on the Constitution of California, but most of the sections can be traced back to the constitutions of particular states.

In arrangement, the Constitution follows generally the Constitution of Iowa. Sixty-six of the 137 sections of the original Constitution of California appear to have been taken from the Constitution of Iowa, and 19 from the Constitution of New York. It is clear also that sections from the Constitutions of the States of Louisiana, Wisconsin, Michigan, Texas and Mississippi, and of the United States, were adopted. The sources of the other sections of the Constitution are not clear. Some sections appear to be modifications of sections from other constitutions and some sections appear to be original.<sup>52</sup>

### The First Constitution

The Constitution was divided into 13 parts consisting of 12 articles and a schedule.

#### **Article I—The Bill of Rights**

The first article was a declaration of rights, which provided that all men were free and independent,<sup>53</sup> that political power was inherent in the people,<sup>54</sup> guaranteed trial by jury<sup>55</sup> and freedom of religion,<sup>56</sup> that the writ of habeas corpus should not be suspended,<sup>57</sup> that excessive bail should not be required,<sup>58</sup> guaranteed free speech,<sup>59</sup> the right of free assembly,<sup>60</sup> provided that laws of a general nature should have a uniform operation.<sup>61</sup> It provided that the military power should be subordinate to civil power,<sup>62</sup> and that soldiers should not be quartered in private houses in time of peace.<sup>63</sup> It required that representation should

<sup>50</sup> Browne, Debates, 25, 27, 36, 40, 221.

<sup>51</sup> Browne, Debates, 37, 56, 63, 70, 77, 110, 132, 165, 235, 248, 250, 292, 371, 380, 384.

<sup>52</sup> For further information on the sources of the Constitution see Goodwin, *The Establishment of State Government in California*, 230-243.

<sup>53</sup> Sec. 1.

<sup>54</sup> Sec. 2.

<sup>55</sup> Sec. 3.

<sup>56</sup> Sec. 4.

<sup>57</sup> Sec. 5.

<sup>58</sup> Secs. 6, 7.

<sup>59</sup> Sec. 9.

<sup>60</sup> Sec. 10.

<sup>61</sup> Sec. 11.

<sup>62</sup> Sec. 12.

<sup>63</sup> Sec. 13.

be apportioned according to population.<sup>64</sup> No person should be imprisoned for debt,<sup>65</sup> and no bill of indenture, ex post facto law or law impairing operation of contract should be passed.<sup>66</sup> Foreigners who were residents of the State were granted the same right with respect to possession, enjoyment and inheritance of property as citizens.<sup>67</sup> Slavery was prohibited.<sup>68</sup> Unreasonable searches were forbidden.<sup>69</sup> Treason against the State was defined.<sup>70</sup> It was provided that the enumeration of rights should not be construed to deny others retained by the people.<sup>71</sup>

#### **Article II—Suffrage**

The right of suffrage was granted to "every white male citizen of the United States and every white male citizen of Mexico who shall have elected to become a citizen of the United States under the terms of the Treaty of Peace exchanged at Querétaro on the thirtieth day of May, 1848, of the age of 21 years, who shall have been a resident of the United States for six months preceding the election and the county or district for 30 days in which he claims to vote," and the Legislature was authorized by a two-thirds vote to admit Indians or descendants of Indians to the right of suffrage.<sup>72</sup> Electors were privileged from arrest, except for treason, felony, breach of peace, during attendance at elections,<sup>73</sup> and were not to be required to perform military duty on election day except in time of war or public danger.<sup>74</sup> Residence for the purpose of voting was not gained or lost by the presence in or absence from the district while employed by the United States or in commerce, on the high seas, or as students.<sup>75</sup> Idiots, insane persons, and persons convicted of crime were not eligible to vote.<sup>76</sup> All elections were to be by ballot.<sup>77</sup>

#### **Article III—Distribution of Powers**

Article III contained the provision concerning separation of powers and was as follows:

"The powers of the government of the State of California shall be divided into three separate departments: the legislative, the executive, and judicial; and no person charged with the exercise of powers properly belonging to one of these departments shall exercise any functions pertaining to either of the others, except in the cases hereinafter expressly directed or permitted."

<sup>64</sup> Sec. 14.

<sup>65</sup> Sec. 15.

<sup>66</sup> Sec. 16.

<sup>67</sup> Sec. 17.

<sup>68</sup> Sec. 18.

<sup>69</sup> Sec. 19.

<sup>70</sup> Sec. 20.

<sup>71</sup> Sec. 21.

<sup>72</sup> Sec. 1.

<sup>73</sup> Sec. 2.

<sup>74</sup> Sec. 3.

<sup>75</sup> Sec. 4.

<sup>76</sup> Sec. 5.

<sup>77</sup> Sec. 6.

#### **Article IV—Legislative Department**

The legislative power of the State was vested in the Senate and Assembly.<sup>78</sup> Sessions of the Legislature<sup>79</sup> and elections of Assemblymen were to be annually.<sup>80</sup> Senators were to be elected biennially<sup>81</sup> and were to be divided into two classes as nearly equal as practicable, one-half of whom were to be chosen each year.<sup>82</sup> Members were required to be qualified electors of the district from which elected.<sup>83</sup> Each house was to choose its own officers and to be judge of the election of its members,<sup>84</sup> to determine its own rules,<sup>85</sup> and to keep a journal of its proceedings.<sup>86</sup> A majority was to constitute a quorum.<sup>87</sup> Members were privileged from arrest and civil process except for treason, felony or breach of the peace, from 15 days before the commencement until 15 days after the termination of each session.<sup>88</sup> The Governor was to issue writs of election to fill vacancies.<sup>89</sup> The sessions were to be public except when in the opinion of the house secrecy was required.<sup>90</sup> Neither house was to adjourn for more than three days without the consent of the other.<sup>91</sup> Bills might originate in either house and be amended in the other.<sup>92</sup>

After a bill had been passed by both houses it was to be submitted to the Governor for his approval; if he disapproved of it he should return it with his objections and the bill should be reconsidered and in case it received a two-thirds vote of the members of each house, it should become a law despite the Governor's objection. In case the bill should not be returned within 10 days, Sunday excepted, it should become a law unless the Legislature by adjournment prevented the return.

No Member of the Legislature was to be eligible to an office which was created or the salary of which was increased during the time of his service,<sup>93</sup> nor might he hold any lucrative office under the United States.<sup>94</sup> The Assembly was given the power of impeachment and impeachments were to be tried by the Senate.<sup>95</sup> The officers subject to impeachment were the Governor, the state administrative officers and justices of the Supreme and district courts.<sup>96</sup> Every person convicted of embezzlement was declared to be ineligible to any office of the State.<sup>97</sup> Money might be drawn from the Treasury only in consequence of appropriations made by law.<sup>98</sup>

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<sup>78</sup> Sec. 1.  
<sup>79</sup> Sec. 2.  
<sup>80</sup> Sec. 3.  
<sup>81</sup> Sec. 5.  
<sup>82</sup> Secs. 6, 7.  
<sup>83</sup> Sec. 4.  
<sup>84</sup> Sec. 8.  
<sup>85</sup> Sec. 10.  
<sup>86</sup> Sec. 11.  
<sup>87</sup> Sec. 9.  
<sup>88</sup> Sec. 12.  
<sup>89</sup> Sec. 13.  
<sup>90</sup> Sec. 14.  
<sup>91</sup> Sec. 15.  
<sup>92</sup> Sec. 16.  
<sup>93</sup> Secs. 20, 24.  
<sup>94</sup> Sec. 21.  
<sup>95</sup> Sec. 18.  
<sup>96</sup> Sec. 19.  
<sup>97</sup> Sec. 22.  
<sup>98</sup> Sec. 23.

Every law was required to have but one subject which should be stated in the title and when any section was amended it was required to be re-enacted and published at length.<sup>99</sup>

The Legislature was denied the right to grant divorces<sup>100</sup> or authorize lotteries.<sup>101</sup>

A census was required to be taken in 1852, in 1855 and every 10 years thereafter.<sup>102</sup> The Legislature was to divide the State into legislative districts<sup>103</sup> but no county should be divided in the making of such districts.<sup>104</sup>

"Corporations may be formed under the general laws but shall not be created by special act except for municipal purposes."<sup>105</sup> Each stockholder of a corporation was made personally liable for his proportion of its liabilities,<sup>106</sup> and the corporators were to be liable for fees from corporations<sup>107</sup> and joint stock companies.<sup>108</sup>

The Legislature was required to provide for the organization of cities.<sup>109</sup>

In elections by the legislatures the members were required to vote *viva voce* and the votes were to be entered in the journal.<sup>110</sup>

#### *Article V—Executive Department*

The supreme executive power of the State was vested in the Governor,<sup>111</sup> who was to be elected in the same manner as Members of the Assembly, and to hold office for two years.<sup>112</sup> To be eligible to the office of Governor, a person was required to be a citizen of the United States, a resident of the State for two years and to be 25 years of age.<sup>113</sup>

The election returns for the office of Governor were required to be submitted to the Legislature and to be opened and published in the presence of both houses.<sup>114</sup>

The Governor was made commander in chief of the militia.<sup>115</sup> He was directed to transact all executive business<sup>116</sup> and to see that the laws were faithfully executed.<sup>117</sup> Whenever a vacancy in a state office occurred where no provision for a successor had been made the Governor was authorized to fill the vacancy until the next election.<sup>118</sup>

The Governor was empowered to call special sessions of the Legislature,<sup>119</sup> and directed to present his message on the condition of the State

<sup>99</sup> Sec. 25.

<sup>100</sup> Sec. 26.

<sup>101</sup> Sec. 26.

<sup>102</sup> Sec. 28.

<sup>103</sup> Sec. 29.

<sup>104</sup> Sec. 30.

<sup>105</sup> Sec. 31.

<sup>106</sup> Sec. 36.

<sup>107</sup> Sec. 32.

<sup>108</sup> Sec. 33.

<sup>109</sup> Sec. 37.

<sup>110</sup> Sec. 38.

<sup>111</sup> Sec. 1.

<sup>112</sup> Sec. 2.

<sup>113</sup> Sec. 3.

<sup>114</sup> Sec. 4.

<sup>115</sup> Sec. 5.

<sup>116</sup> Sec. 6.

<sup>117</sup> Sec. 7.

<sup>118</sup> Sec. 8.

<sup>119</sup> Sec. 9.

at each session<sup>120</sup> and in case of a disagreement as to the time of adjournment, he might adjourn the Legislature.<sup>121</sup>

No person while holding an office of the United States was eligible to act as Governor.<sup>122</sup>

The Governor was authorized to grant reprieves and pardons, a record of which he was required to transmit to the next session of the Legislature.<sup>123</sup>

The Great Seal of the State was to be kept by the Governor<sup>124</sup> and all grants and commissions made in the name of the State were to be sealed by such seal.<sup>125</sup>

The Lieutenant Governor was to be elected in the same manner as the Governor. He was to be President of the Senate and have a vote in case of a tie.<sup>126</sup>

In case of a vacancy in the office of Governor, the Lieutenant Governor should act as Governor.<sup>127</sup> During any vacancy in the office of Governor and Lieutenant Governor the President pro Tempore of the Senate should act as Governor.<sup>128</sup>

A Comptroller, a Treasurer, an Attorney General and a Surveyor General were to be elected in the same manner and for the same term as the Governor.<sup>129</sup>

The Secretary of State was to be appointed by the Governor with the advice and consent of the Senate.<sup>130</sup> The other executive state officers to act during the first term were to be chosen by the joint vote of the two houses of the Legislature.<sup>131</sup>

The executive officers were to receive a regular compensation but were to receive no fees for the performance of their duties.<sup>132</sup>

#### **Article VI—Judicial Department**

The judicial power of the State was vested in a Supreme Court, in district courts, county courts and justices' courts.<sup>133</sup>

The Supreme Court was to consist of a Chief Justice and two Associate Justices,<sup>134</sup> who were to be elected by the people for six-year terms.<sup>135</sup> The Supreme Court was given appellate jurisdiction in all cases in which the matter in dispute exceeded \$200 in value, in all cases involving the legality of taxes and in questions of law in criminal cases amounting to felonies.<sup>136</sup>

<sup>120</sup> Sec. 10.

<sup>121</sup> Sec. 11.

<sup>122</sup> Sec. 12.

<sup>123</sup> Sec. 13.

<sup>124</sup> Sec. 14.

<sup>125</sup> Sec. 15.

<sup>126</sup> Sec. 16.

<sup>127</sup> Sec. 17.

<sup>128</sup> Sec. 16.

<sup>129</sup> Sec. 18.

<sup>130</sup> Sec. 19.

<sup>131</sup> Sec. 20.

<sup>132</sup> Sec. 21.

<sup>133</sup> Sec. 1.

<sup>134</sup> Sec. 2.

<sup>135</sup> Sec. 3.

<sup>136</sup> Sec. 6.

The Legislature was directed to divide the State into judicial districts in which were to be organized district courts. The judges of the district courts were to be elected by the people for terms of six years.<sup>137</sup> The district courts were given original jurisdiction in civil cases where the amount in dispute exceeded \$200, and unlimited jurisdiction in criminal cases and questions of fact raised in probate cases.<sup>138</sup>

The Legislature was to provide for the election by the people of district attorneys, sheriffs, and the other necessary officers.<sup>139</sup>

There was to be a county court in each county. The judge was to be elected for a term of four years. These courts were to have jurisdiction of probate cases, of appeals from justices' courts<sup>140</sup> and such other cases as the Legislature might prescribe.<sup>141</sup>

The Legislature was directed to determine the number of justices of the peace to be elected in the different counties and cities and fix their powers, duties and responsibilities.<sup>142</sup>

No judicial officers except justices of the peace were to receive fees.<sup>143</sup>

The Legislature was authorized to establish courts of arbitration, whose decisions were to be binding only when the parties had voluntarily submitted their dispute.<sup>144</sup>

The judges of the Supreme and district courts were to receive salaries which were not to be increased during their terms of office<sup>145</sup> and they were made ineligible to any other office during such terms.<sup>146</sup>

Judges were forbidden to "charge juries with respect to matter of fact, but may state the testimony and declare the law."<sup>147</sup>

All process was to be in the name of the "People of the State of California."<sup>148</sup>

The Legislature was directed to provide for a speedy publication of the statutes and judicial decisions.<sup>149</sup>

#### **Article VII—The Militia**

The Legislature was directed to provide for a militia<sup>150</sup> which might be called out by the Governor.<sup>151</sup> The officers were to be selected in a manner provided by the Legislature and commissioned by the Governor.<sup>152</sup>

<sup>137</sup> Sec. 5.

<sup>138</sup> Sec. 6.

<sup>139</sup> Sec. 7.

<sup>140</sup> Sec. 8.

<sup>141</sup> Sec. 9.

<sup>142</sup> Sec. 14.

<sup>143</sup> Sec. 11.

<sup>144</sup> Sec. 13.

<sup>145</sup> Sec. 15.

<sup>146</sup> Sec. 16.

<sup>147</sup> Sec. 17.

<sup>148</sup> Sec. 18.

<sup>149</sup> Sec. 12.

<sup>150</sup> Sec. 1.

<sup>151</sup> Sec. 3.

<sup>152</sup> Sec. 2.

**Article VIII—State Debts**

The Legislature was authorized to incur indebtedness of not to exceed \$300,000 without special authorization, and was also authorized to incur, with the approval of the voters at a general election, further debt "for some single object or work, to be distinctly specified."

**Article IX—Education**

A Superintendent of Public Instruction was to be elected to serve for a term of three years.<sup>153</sup> A system of common schools was to be maintained<sup>154</sup> and any money derived from land granted by the United States for the use of the common schools was to be held as a trust fund for that purpose.<sup>155</sup> Similar provision was made for a state university.

**Article X—Mode of Amending and Revising the Constitution**

Amendments to the Constitution were to be proposed at two successive sessions of the Legislature by a majority vote of all the members elected to each house, subject to approval by "a majority of the electors qualified to vote for Members of the Legislature."<sup>156</sup> A convention to revise the Constitution might be proposed by two-thirds of the members of both houses.<sup>157</sup>

**Article XI—Miscellaneous Provisions**

San Jose was to be the "permanent seat of government until removed by law."<sup>158</sup> Any citizen who should fight a duel was disfranchised.<sup>159</sup> State officers were to take a prescribed oath.<sup>160</sup> The Legislature was to provide a system of county and town governments<sup>161</sup> and for the election of county boards of supervisors.<sup>162</sup> Officers whose selection was not provided for were to be elected or appointed as the Legislature might direct.<sup>163</sup> Terms of office were not to exceed four years.<sup>164</sup> The fiscal year was to begin on July 1st.<sup>165</sup> Each political subdivision was to support its own officers.<sup>166</sup> The state credit was not to be loaned.<sup>167</sup> Suits against the State were to be regulated by law.<sup>168</sup> Marriages were not invalidated by failure to comply with requirements of any religious sect.<sup>169</sup> Taxes were to be uniform throughout the State, and assessors and tax collectors were to be elected by the district in which the property to be taxed was situated.<sup>170</sup> Ownership of separate

<sup>153</sup> Sec. 1.

<sup>154</sup> Sec. 2.

<sup>155</sup> Sec. 3.

<sup>156</sup> Sec. 1.

<sup>157</sup> Sec. 2.

<sup>158</sup> Sec. 1.

<sup>159</sup> Sec. 2.

<sup>160</sup> Sec. 3.

<sup>161</sup> Sec. 4.

<sup>162</sup> Sec. 5.

<sup>163</sup> Sec. 6.

<sup>164</sup> Sec. 7.

<sup>165</sup> Sec. 8.

<sup>166</sup> Sec. 9.

<sup>167</sup> Sec. 10.

<sup>168</sup> Sec. 11.

<sup>169</sup> Sec. 12.

<sup>170</sup> Sec. 13.

property was provided for married women,<sup>171</sup> and homesteads were to be protected from forced sale.<sup>172</sup> Perpetuities were not allowed except for eleemosynary purposes.<sup>173</sup> Conviction for crime was to disqualify for office.<sup>174</sup> Absence from the State on the business of the State or of the United States was not to affect the question of residence.<sup>175</sup> A plurality of votes was to elect.<sup>176</sup> All laws, decrees, etc., which required publication were to be published in both English and Spanish.<sup>177</sup>

#### **Article XII—Boundary**

The boundary was fixed as it now exists.

#### **Schedule**

A schedule followed the other provisions of the Constitution and provided for the vote upon it and for its taking effect.

#### **Adoption of the Constitution**

The Constitutional Convention adjourned on October 13, 1849, and the date for the vote on the adoption of the Constitution and the election of prospective Governor and Lieutenant Governor and Members of the Legislature was November 13th. Copies of the proposed Constitution were printed and distributed as quickly as possible. Candidates were nominated by mass meetings and usually ran without party designation.

The vote on the Constitution was 12,872 for and 811 against.<sup>178</sup> The small vote was probably due to the election day being very stormy. Most of the votes against the Constitution were cast in the Sacramento and San Joaquin districts.

#### **Organization of the State Government**

The first Legislature met at San Jose on December 15, 1849. When the election returns were canvassed Peter H. Burnett was found to be elected Governor, and John McDougal, Lieutenant Governor. John C. Fremont and William M. Gwin were elected Senators. State administrative officers and Justices of the Supreme Court were also elected.<sup>179</sup>

The Legislature authorized a loan of \$200,000<sup>180</sup> and provided a system of taxation.<sup>181</sup>

The common law was adopted as the law of the State.<sup>182</sup> Governor Burnett had recommended that the English merchant law and the definitions of crimes and the Civil Code and Code of Procedure of Louisiana be adopted.

<sup>171</sup> Sec. 14.

<sup>172</sup> Sec. 15.

<sup>173</sup> Sec. 16.

<sup>174</sup> Secs. 17 and 18.

<sup>175</sup> Sec. 19.

<sup>176</sup> Sec. 20.

<sup>177</sup> Sec. 21.

<sup>178</sup> The official returns are in the archives of the Secretary of State at Sacramento.

<sup>179</sup> Bancroft XXIII, 311-314.

<sup>180</sup> Journals of the California Legislature, 1850, pp. 630, 640, 650.

<sup>181</sup> Statutes of 1850, p. 54.

<sup>182</sup> Journals of the California Legislature, 1850, pp. 323, 1123, 1204.

The Legislature passed acts fixing the jurisdiction of the courts and rather comprehensive acts governing criminal and civil procedure.<sup>183</sup>

The state was divided into 25 counties,<sup>184</sup> and provision was made for the incorporation of cities.<sup>185</sup>

The State was organized and began to function exactly as though it were a part of the Union.

#### *Admission of California Into the Union*

The Legislature elected Senators to the United States Senate and sent them with representatives to Washington to urge the admission of California into the Union as a state. These senators were John C. Fremont and William M. Gwin. The delegation worked strenuously to secure the admission of the State to the Union at an early date. There was still further delay and California was not finally admitted to the Union until September 9, 1850.

#### *Amendments to the First Constitution*

The only important amendments to the first Constitution were adopted in 1862, although minor amendments were adopted in 1857 and 1871. They provided that the term of the Governor be increased from two to four years, that the Secretary of State be elected, and completely revised and re-enacted Article VI, relating to the Judicial Department. The effect of the amendments was to provide for recorder's courts and court commissioners, and in general to revise and amplify the provisions of the Constitution relating to the courts.

#### *Defects of the First Constitution*

The first Constitution was not entirely satisfactory, as no Constitution or law can ever be. The principal faults charged to the new Constitution were faults of omission.<sup>186</sup> It was said that the old Constitution was "dumb" on the subject of finance, that all of the regulations concerning taxation "did not occupy four lines." The Legislature might impose any tax which it might desire and as a result much capital had been driven from the State. The expenditure of money was entirely unchecked. The Legislature was unlimited as to the salaries it might allow to its members or other state officers. No check was established against extravagant fees which might be allowed for any official service. There was nothing to prevent the Legislature from disposing of the entire property of the State. No provision was made for separate senatorial and assembly districts and the members elected at large from the more populous counties controlled the Legislature. The number of Members of the Assembly was limited to 40 and yet there were counties which had no representation in that house. Another defect frequently

<sup>183</sup> Statutes 1850, p. 275.

<sup>184</sup> Journals of the California Legislature, 1850, pp. 156, 849; Statutes 1850, p. 58.

<sup>185</sup> Journals of the California Legislature, 1850, pp. 190, 229, 944, 1026; Statutes 1850, p. 87.

<sup>186</sup> Summarized in Bancroft XXIV, 370, 371.

objected to was the unlimited pardoning power of the Governor. The real dissatisfaction which resulted in calling the second Constitutional Convention appears to have arisen from the financial depression of the time. In San Francisco desire for radical changes in the Constitution had been particularly evident. A native of that city named Denis Kearney had gathered about himself a group of radicals and organized a "workingman's" party which demanded some substantial changes.

### The Second Constitution

#### *The Convention Called*

The Legislature had proposed the calling of a second Constitutional Convention in 1859, 1860 and 1873, but each time the proposal had been voted down at the election. A convention was again proposed in 1877. This time it was approved at the election and provision was made for the immediate meeting of the convention. As early as April, 1878, attempts were made to organize a single nonpartisan organization. The 152 delegates who were elected to the convention in September were divided into three groups: There were 85 nonpartisan delegates, 50 "Kearneyites or Workingman's Party delegates" and 17 elected on the regular party tickets, nine of whom were Republicans and eight Democrats. The large number of foreign-born delegates caused considerable comment at the time. There were 35 foreign-born delegates in the convention, most of whom were Irish and 19 of whom were from San Francisco.<sup>187</sup>

#### *The Convention*

No members of the convention were particularly conspicuous. Joseph F. Hoge of San Francisco was elected president and appeared to be a capable presiding officer. Edwin F. Smith was elected secretary of the convention. The work of the convention was divided between 23 committees, each of which reported on a particular part of the proposed Constitution. The work of the convention consisted primarily in making the new Constitution more specific and detailed. The opponents of the new Constitution described it as a code of law rather than a constitution.

#### *The Bill of Rights*

Probably the most conspicuous new clauses were those added to the Bill of Rights which provided that "no property qualification shall ever be required for any person to vote or hold office" and that "the provisions of this Constitution are mandatory and prohibitory unless by express words they are declared to be otherwise."<sup>188</sup>

<sup>187</sup> Bancroft XXIV, 373, 407.

<sup>188</sup> Article I, Secs. 24, 22.

### *The Legislative Department*

The powers of the Legislature<sup>189</sup> were considerably restricted. Appropriations of money for the use of institutions not under the exclusive control of the State were forbidden, except for orphanages or homes for the indigent.<sup>190</sup>

Special legislation was forbidden in a large number of cases, including the regulation of the duties of judicial officers, punishment of crimes and misdemeanors, regulating practice of courts of justice, providing for change of venue in civil and criminal actions, granting divorces, changing the names of persons or places, laying out streets, etc., summoning and impaneling grand and petty juries, regulating county and township business, election of township officers, and assessment or collection of taxes. Special legislation was also forbidden affecting estates, extending the time for the collection of taxes, giving effect to invalid debts, wills or other instruments, refunding money paid into the State Treasury, repudiating debts of any municipal corporation, declaring persons of age, legalizing except against the State any unauthorized act, granting any rights or privileges to corporations, exempting property from taxation, changing county seats, restoring citizenship, regulating interest rate on money, controlling liens, providing for the management of common schools, remitting fines, effecting fees or salaries of any officers, changing the law of descent, authorizing the adopting of children, limiting civil or criminal actions, and "all other cases where a general law can be made applicable."<sup>191</sup>

The Legislature was directed to pass laws to regulate or prohibit the sale of stock of corporations, by any exchange under the control of any association, and all sales of stock on a margin or for future delivery were declared void.<sup>192</sup>

No appropriation or allotment of money might be made from any public source for the aid of any religious school or hospital.<sup>193</sup>

The Legislature was prohibited from lending the credit of the State,<sup>194</sup> and no gifts of public money might be made.<sup>195</sup>

The Legislature was directed to enact laws limiting the charges of telegraph and gas companies and the charges of storage, wharfage, etc.<sup>196</sup>

### *The Executive Department*

There was but slight change made in the Executive Department. The term of office of the Governor had been increased in 1862 from two to four years. The Governor might veto a bill but each house by a two-thirds vote could pass a bill over his veto. The Governor might convene extra sessions of the Legislature, which should have no power to legislate except on the subjects named in the call.<sup>197</sup>

<sup>189</sup> Article IV.

<sup>190</sup> Article IV, Sec. 22.

<sup>191</sup> Article IV, Sec. 25.

<sup>192</sup> Article XII, Sec. 26.

<sup>193</sup> Article IV, Sec. 30; Article IX, Sec. 8.

<sup>194</sup> Article IV, Sec. 33.

<sup>195</sup> Article IV, Sec. 26.

<sup>196</sup> Article IV, Sec. 33.

<sup>197</sup> Article VI, Sec. 9.

The Governor was directed to report to the Legislature any and all pardons he had granted since the last session, and no person twice convicted of a felony might be pardoned except on the recommendation of a majority of Judges of the Supreme Court.<sup>198</sup>

#### *The Judicial Department*

The Judicial Department was completely reorganized.<sup>199</sup> The Supreme Court was to consist of a Chief Justice and six Associate Justices who might sit in two departments of three judges each.

The decision of each department was to be final except when a hearing in bank was granted. The Chief Justice was to apportion the business to the departments. The concurrence of four judges was necessary to a judgment in bank. All decisions of the Supreme Court were required to be in writing and the grounds for the decisions stated. Under the first Constitution decisions were not always made in writing.<sup>200</sup>

The Justices of the Supreme Court were to be elected in three separate classes and were to hold office for 12 years.<sup>201</sup>

The county and district courts were to be replaced by superior courts.<sup>202</sup>

#### *Corporations*

Considerable attention was given to the "evils" of corporations and "monopolies." Corporations were to be formed only under general laws and each stockholder was to be individually liable for his proportion of all the debts of the corporation.<sup>203</sup>

The directors were liable to the creditors for all money embezzled or misappropriated.<sup>204</sup>

The Legislature could not grant a charter for banking purposes but banks might be formed under general laws.<sup>205</sup>

The State was specifically given a right to take property of individuals or corporations by eminent domain for public use.<sup>206</sup>

No corporation might engage in any business other than that authorized in its charter and no corporation might hold real estate not necessary to its business for more than five years.<sup>207</sup>

No corporation might issue stock or bonds except for actual payment in money, labor or property, and all fictitious increase of stock or indebtedness was void.<sup>208</sup> Cumulative voting was authorized in corporations. Common carriers were made subject to legislative control. Transportation companies might not grant free passes to persons holding office, and the acceptance of such a pass by any public officer, except a railroad commissioner, caused the forfeiture of the office.<sup>209</sup>

<sup>198</sup> Article VII.

<sup>199</sup> Article IV, Sec. 2.

<sup>200</sup> Heuston vs. Williams, 18 Cal. 24.

<sup>201</sup> Article VI, Sec. 3.

<sup>202</sup> Article VI, Sec. 6.

<sup>203</sup> Article XII, Secs. 1, 2.

<sup>204</sup> Article XII, Sec. 3.

<sup>205</sup> Article XII, Sec. 5.

<sup>206</sup> Article XII, Sec. 8.

<sup>207</sup> Article XII, Sec. 9.

<sup>208</sup> Article XII, Sec. 11.

<sup>209</sup> Article XII, Sec. 19.

Any common carrier which reduced its rates for the purpose of competition might not increase such rates until authorized.<sup>210</sup>

The State was divided into three districts in each of which a railroad commissioner was to be elected. The duty of the railroad commissioner was to supervise and regulate the rates of transportation.<sup>211</sup>

#### Taxation

Mortgages, deeds of trust and any instruments by which debts were secured were subject to taxation as interests in such property, and property was declared to include "moneys, credits, bonds, stocks, dues, franchises, and all other matters and things, real and personal and mixed, capable of private ownership."<sup>212</sup>

Special attention was given to making taxes on large amounts of property proportional to those upon smaller divisions.

#### Chinese

An entire article was devoted to the Chinese which provided that every means should be taken to prohibit their immigration, that they should not be employed by corporations or any public works, and that the Legislature should make necessary regulations for the protection of the state political subdivisions from the burdens arising from their presence.<sup>213</sup>

#### Education

A new provision required that the state school money be used only for the common schools.<sup>214</sup> Examinations for teachers' certificates were to be conducted by local boards instead of by the state board. Sectarian doctrines were not to be taught in any of the public schools of the State.<sup>215</sup>

#### Miscellaneous Provisions

Several restrictions were placed upon the organization of counties under general laws.<sup>216</sup> Provisions were made for granting charters to cities.<sup>217</sup> Amendments to the Constitution might be proposed by two-thirds of the members elected to each house of the Legislature.<sup>218</sup>

#### The Constitution Adopted

The provisions of the Constitution regulating corporations and some of the provisions relating to cities and counties, particularly those relating to the granting of charters, caused considerable opposition to the proposed Constitution.

<sup>210</sup> Article XII, Sec. 20.

<sup>211</sup> Article XII, Sec. 22.

<sup>212</sup> Article XIII, Sec. 1.

<sup>213</sup> Article XIX.

<sup>214</sup> Article IX, Sec. 4.

<sup>215</sup> Article IX, Sec. 7.

<sup>216</sup> Article XI.

<sup>217</sup> Article XI, Sec. 8.

<sup>218</sup> Article XVIII.

San Francisco, where the strongest demand for a new Constitution had been evident, rejected the new Constitution by a majority of 1,500 out of 38,000; but the Constitution was adopted by a majority of 10,000 out of a total state vote of 145,000 and went into effect for some purposes on July 4, 1879.<sup>219</sup>

Some of the limitations that were incorporated to appease the radical members were so worded that they failed to accomplish the purposes intended or, as in the case of the provision prohibiting the employment of Chinese by corporations, were found to be in conflict with the Federal Constitution and treaties.

#### *Amendments*

The large amount of legislation contained in the Constitution has necessitated frequent change. From 1880 to 1940 inclusive, there were amendments proposed to 733 sections of the Constitution, of which 343 were adopted and 390 rejected. Among the more important amendments adopted were those providing for the initiative and referendum,<sup>220</sup> and recall,<sup>221</sup> the executive budget,<sup>222</sup> the district courts of appeal,<sup>223</sup> municipal courts,<sup>224</sup> absent voting,<sup>225</sup> increasing the powers of the Railroad Commission,<sup>226</sup> establishing the Judicial Council,<sup>227</sup> regulating the sale of liquor,<sup>228</sup> and establishing a state civil service system.<sup>229</sup>

#### *Proposed Constitutional Convention*

During recent years there has been considerable discussion of the advisability of calling a Constitutional Convention. In 1933 the Legislature submitted the question of calling a Constitutional Convention to the voters.<sup>230</sup> This proposal received a vote of 705,915 for to 668,080 against. When the Legislature undertook to make provision for the convention it was noticed that the proposition approved by the people had provided that the convention must meet within three months of the election calling it. The election having been November 6, 1934, the three months would expire February 6, 1935. The Legislature met on January 7, 1935, and it was impossible for the Legislature to pass the necessary legislation to provide for the convention for the election to be called, the results canvassed and the delegates to meet within 29 days. It was argued by some that the provision concerning time was only directory and that the convention should be called at a later date. Other defects in the proposal were pointed out; the cost of the special elections were considered. The Legislature finally took no action.

<sup>219</sup> Bancroft XXIV, 400; Article XXII, Sec. 12.

<sup>220</sup> Article IV, Sec. 1.

<sup>221</sup> Article XXIII.

<sup>222</sup> Article IV, Sec. 34.

<sup>223</sup> Article VI, Sec. 4.

<sup>224</sup> Article VI, Sec. 11.

<sup>225</sup> Article II, Sec. 1.

<sup>226</sup> Article XII, Secs. 22, 23, 23a.

<sup>227</sup> Article VI, Sec. 1a.

<sup>228</sup> Article XX, Sec. 22.

<sup>229</sup> Article XXIV.

<sup>230</sup> Assembly Concurrent Resolution No. 17.

***Revision of the Constitution***

At every session of the Legislature, from 1935 to 1947, there were proposals for a Constitutional Convention and for revision of the Constitution. The proposals were given thorough consideration but none of them passed. Finally, in 1947, Assembly Concurrent Resolution No. 89 was proposed for the purpose of setting up a joint committee for making recommendations concerning constitutional revision. This resolution passed and the joint committee consisting of 10 members from each house was appointed. A large and representative advisory committee was selected and a competent staff was secured.

The resolution directed the committee to study the Constitution of California and those of other states and to prepare a draft of a revised Constitution appropriate for use in case revision of the Constitution as a whole was effected and a series of drafts of the several parts of the Constitution appropriate for use in case needed changes were effected by amendment instead of by way of revision.

A study of the problems of revision indicated that a complete revision of the Constitution rather than the submission of individual amendments would be more feasible. An amendment was prepared to Article XVIII of the Constitution authorizing the Legislature to submit a revision of the Constitution to the electors, but this proposal was not submitted.

Very little was accomplished because the advisory committee recommended that the committee restrict itself to the elimination of obsolete provisions in the Constitution rather than a revision in substance and that recommendation was accepted by the committee. A series of seven constitutional amendments were submitted by the Legislature to the voters for the purpose of eliminating purely obsolete material from the Constitution. After submission it was discovered that one of these proposals might contain defects in drafting. At the special election November 8, 1949, the voters adopted six of these proposals thereby eliminating the more obviously obsolete proposals of the Constitution. These amendments on the whole eliminated approximately 14,500 words from the Constitution.



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# **Constitution of California**

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